

Chapter 1

GENERAL PROVISIONS

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ARTICLE I

Adoption of Code

[Adopted 8-11-1994 by L.L. No. 1-1994]

§ 1-1. Legislative intent.

In accordance with Subdivision 3 of § 20 of the Municipal Home Rule Law, the local laws, ordinances and certain resolutions of

the Town of Palermo , as codified by General Code Publishers Corp., and consisting of Chapters 1 through 140, together with an Appendix, shall be known collectively as the "Code of the Town of Palermo," hereafter termed the "Code." Wherever reference is made in any of the local laws, ordinances and resolutions contained in the Code of the Town of Palermo to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to the appropriate chapter title, chapter number, article number or section number appearing in the Code as if such local law, ordinance or resolution had been formally amended to so read.

§ 1-2. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of local laws, ordinances and resolutions in force immediately prior to the enactment of the Code by this local law, are intended as a continuation of such local laws, ordinances and resolutions and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior local law, ordinance or resolution. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Town Board of the Town of Palermo, and it is the intention of said Board that each such provision contained within the Code is hereby reaffirmed as it appears in said Code. Only such provisions of former local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below.

§ 1-3. Repeal of enactments not included in Code.

All local laws and ordinances of a general and permanent nature of the Town of Palermo in force on the date of the adoption of this local law and not contained in such Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this local law.

GENERAL PROVISIONS

§ 1-4. Enactments saved from repeal; matters not affected.

The repeal of local laws and ordinances provided for in § 1-3 of this local law shall not affect the following classes of local laws, ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any right or liability established, accrued or incurred under any legislative provision of the Town of Palermo prior to the effective date of this local law or any action or proceeding brought for the enforcement of such right or liability.
- B. Any offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Town of Palermo or any penalty, punishment or forfeiture which may result therefrom.
- C. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this local law brought pursuant to any legislative provision of the Town of Palermo.
- D. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Town of Palermo.
- E. Any local law or ordinance of the Town of Palermo providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place within the Town of Palermo or any portion thereof.
- F. Any local law or ordinance of the Town of Palermo appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Town of Palermo or other instruments or evidence of the Town's indebtedness.

- G. Local laws or ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract or obligation.
- H. The levy or imposition of special assessments or charges.
- I. The annexation or dedication of property.
- J. Any legislation relating to salaries.
- K. Any local law or ordinance amending the Zoning Map.
- L. Any legislation adopted subsequent to September 28, 1993.

§ 1-5. Severability.

If any clause, sentence, paragraph, section, article, chapter or part of this local law or of any local law, ordinance or resolution included in this Code now or through supplementation shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, article, chapter or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 1-6. Copy of Code on file.

A copy of the Code, in loose-leaf form, has been filed in the office of the Town Clerk of the Town of Palermo and shall remain there for use and examination by the public until final action is taken on this local law; and, if this local law shall be adopted, such copy shall be certified by the Town Clerk of the Town of Palermo by impressing thereon the Seal of the Town, and such certified copy shall remain on file in the office of said Town Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect. The enactment and publication of this local law, coupled with the availability of a copy of the Code for inspection by the public,

shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-7. Amendments to Code.

Any and all additions, deletions, amendments or supplements to any of the local laws, ordinances and resolutions known collectively as the "Code of the Town of Palermo" or any new local laws, ordinances or resolutions, when enacted or adopted in such form as to indicate the intention of the Town Board to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be enacted or adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code as amendments and supplements thereto. Nothing contained in this local law shall affect the status of any local law, ordinance or resolution contained herein, and such local laws, ordinances or resolutions may be amended, deleted or changed from time to time as the Town Board deems desirable.

§ 1-8. Code book to be kept up-to-date.

It shall be the duty of the Town Clerk to keep up-to-date the certified copy of the book containing the Code of the Town of Palermo required to be filed in the office of the Town Clerk for use by the public. All changes in said Code and all local laws, ordinances and resolutions adopted by the Town Board subsequent to the enactment of this local law in such form as to indicate the intention of said Board to be a part of said Code shall, when finally enacted or adopted, be included therein by temporary attachment of copies of such changes, local laws, ordinances or resolutions until such changes, local laws, ordinances or resolutions are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§ 1-9. Sale of Code book; supplementation.

Copies of the Code may be purchased from the Town Clerk of the Town of Palermo upon the payment of a fee to be set by resolution of the Town Board, which Board may also arrange by resolution for procedures for the periodic supplementation thereof.

§ 1-10. Penalties for tampering with Code.

Any person who, without authorization from the Town Clerk, changes or amends, by additions or deletions, any part or portion of the Code of the Town of Palermo or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the Town of Palermo to be misrepresented thereby or who violates any other provision of this local law shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than \$250 or imprisonment for a term of not more than 15 days, or both.

§ 1-11. Changes in previously adopted legislation; new provisions.

- A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Town of Palermo, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsection B hereof. In addition, certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Town Board that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.
- B. In addition, the following amendments and/or additions are made herewith, to become effective upon the effective date of this local law. (Chapter and section number

references are to the local laws, ordinances and resolutions as they have been renumbered and appear in the Code.)¹

§ 1-12. Incorporation of provisions into Code.

The provisions of this local law are hereby made Article I of Chapter 1 of the Code of the Town of Palermo, such local law to be entitled "General Provisions, Article I, Adoption of Code," and the sections of this local law shall be numbered §§ 1-1 to 1-13, inclusive.

§ 1-13. When effective.

This local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

1. **Editor's Note: In accordance with § 1-11B, the chapters, parts and sections which were added, amended, adopted or deleted by this local law are indicated throughout the Code by the following history: "Amended (added, deleted) 8-11-1994 by L.L. No. 1-1994." The complete text of Subsection B, which contains a complete description of all changes, is on file in the office of the Town Clerk.**

Chapter 5

ASSESSOR

- § 5-1. **Effective date.**
- § 5-2. **Appointment; statutory authority.**
- § 5-3. **Referendum.**
- § 5-4. **Termination of elected assessors' terms.**

[HISTORY: Adopted by the Town Board of the Town of Palermo 2-25-1992 as L.L. No. 1-1992. Amendments noted where applicable.]

GENERAL REFERENCES

Taxation — See Ch. 130.

§ 5-1. **Effective date.**

Effective April 20, 1992, the Town of Palermo shall have one (1) Assessor.

§ 5-2. **Appointment; statutory authority.**

The Assessor shall be appointed as provided in § 310 of the Real Property Tax Law.

§ 5-3. **Referendum.**

This chapter is subject to a permissive referendum.

§ 5-4. Termination of elected assessors' terms.

On April 20, 1992, or upon approval of this chapter after referendum,¹ the terms of office of all elected Assessors shall terminate.

1. **Editor's Note: These provisions were passed at a permissive referendum 4-30-1992.**

Chapter 7

BOARD OF APPEALS

- § 7-1. **Title.**
- § 7-2. **Purpose.**
- § 7-3. **Authority.**
- § 7-4. **Membership.**
- § 7-5. **Term of membership; vacancies.**
- § 7-6. **Powers, duties and procedures.**
- § 7-7. **Imposition of conditions.**
- § 7-8. **Appeals to rulings of Board.**

[**HISTORY: Adopted by the Town Board of the Town of Palermo 6-24-1997 by L.L. No. 2-1997. Amendments noted where applicable.**]

GENERAL REFERENCES

Site plan review — See Ch. 114.
Subdivision of land — See Ch. 125.

§ 7-1. **Title.**

This chapter shall be known as the "Local Law Forming and Empowering a Board of Appeals in the Town of Palermo, County of Oswego and State of New York."

§ 7-2. **Purpose.**

Through the establishment of the Town of Palermo Board of Appeals, it is the intention of the Town to create an opportunity for appeal for anyone aggrieved by a decision of an

administrative official or agency pertaining to the Site Plan Review Law¹ or Subdivision of Land Law,² or any other law enacted in the future by the Town Board to which referral is made therein for appeal to the Board of Appeals.

§ 7-3. Authority.

The Board of Appeals was previously authorized pursuant to a resolution of the Town Board and as further established by this chapter pursuant to the authority granted to the Town Board under the provisions of Article 16 of the Town Law of the State of New York.

§ 7-4. Membership.

The Town Board shall appoint a Board of Appeals consisting of five members and shall designate the chairperson thereof. No person who is a member of the Town Board shall be eligible for membership on the Board of Appeals.

§ 7-5. Term of membership; vacancies.

The first persons appointed to the Board of Appeals shall serve for one, two, three, four and five years respectively. At the expiration of each member's appointment, the replacement member or replacement term shall be for a term of five years. If a vacancy shall occur, otherwise than by expiration of a term, the Town Board shall appoint the new member for the unexpired term.

§ 7-6. Powers, duties and procedures.

The Board of Appeals shall have all the powers and duties granted a board of appeals pursuant to Article 16 of the Town Law of the State of New York, more particularly §§ 267, 267-a

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1. **Editor's Note:** See Ch. 114, Site Plan Review.
 2. **Editor's Note:** See Ch. 125, Subdivision of Land.

and 267-b. In addition thereto, the Board of Appeals shall have any and all powers as may be specifically granted and pursuant to local laws established on subjects to be governed by the Board of Appeals.

§ 7-7. Imposition of conditions.

The Board of Appeals, in exercising its duties hereunder, shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such condition shall be consistent with the spirit and intent of the codes of the Town of Palermo and shall be imposed for the purpose of minimizing any adverse impact the ruling may have on the neighborhood or community.

§ 7-8. Appeals to rulings of Board.

All appeals to rulings of the Board of Appeals shall be governed by the terms and conditions of § 267-c of the Town Law of the State of New York.

Chapter 9

CODE ENFORCEMENT OFFICER

- § 9-1. **Officer designation.**
- § 9-2. **Powers and duties; authority.**
- § 9-3. **Training; compensation for training.**

[HISTORY: Adopted by the Town Board of the Town of Palermo 12-27-1990 as L.L. No. 5-1990. Amendments noted where applicable.]

GENERAL REFERENCES

Constable — See Ch. 13.

§ 9-1. Officer designation.

There is hereby designated in the Town of Palermo a public official to be known as the "Code Enforcement Officer," who shall be appointed by the Town Board at a compensation to be fixed by it.

§ 9-2. Powers and duties; authority.

Except as otherwise specifically provided by law, ordinance or regulation, or except as herein otherwise provided, the Code Enforcement Officer, in conjunction with other designated officials, shall administer and enforce all the provisions of the laws, ordinances and regulations of the Town of Palermo. The Code Enforcement Officer shall have all the powers of a

constable or other peace officer in the execution of the provision of these ordinances or local laws.¹

§ 9-3. Training; compensation for training.

The Code Enforcement Officer and his deputies shall be properly trained as prescribed by law and shall be compensated for any expenses incurred while receiving the required training.

1. **Editor's Note:** See Ch. 13, Constable, for the powers and duties granted to that officer.

Chapter 12

COMPATIBILITY OF OFFICE

- § 12-1. Title.
- § 12-2. Purpose.
- § 12-3. Applicability.

[HISTORY: Adopted by the Town Board of the Town of Palermo 2-8-1996 by L.L. No. 1-1996. Amendments noted where applicable.]

§ 12-1. Title.

This chapter shall be known as the "Local Law Superseding the Common Law Doctrine of Compatibility of Office in the Town of Palermo, County of Oswego and State of New York."

§ 12-2. Purpose.

This chapter is enacted for the purpose of establishing a public policy on behalf of the Town residents of the Town of Palermo deeming that the offices of the Town Supervisor and/or Councilman and that of Highway Department employees shall not be incompatible in certain circumstances. This chapter will hereby supersede the Common Law doctrine of compatibility of office.

§ 12-3. Applicability.

The offices of the Town Supervisor and/or Town Councilman and that of the office of Town Highway Department employee shall not be incompatible in the following circumstances:

- A. Due to an emergency need for personnel with a commercial driver's license, it shall be permissible for the Town Supervisor and/or any Town Councilman to serve as a Highway Department employee. Such employment shall only be temporary in nature and shall only occur when it has been determined by the Town Highway Superintendent and the Town official to be necessary to secure the safety of all Town residents in the maintenance of existing highways within the Township.

Chapter 13

CONSTABLE

§ 13-1. Powers and duties.

[HISTORY: Adopted by the Town Board of the Town of Palermo 3-28-1983. Amendments noted where applicable.]

GENERAL REFERENCES

Code Enforcement Officer — See Ch. 9.

§ 13-1. Powers and duties.

The Town Constable of the Town of Palermo shall have the following duties and responsibilities within the geographic boundaries of the Town of Palermo:

- A. To enforce the laws and ordinances of the Town of Palermo, with the power to issue summons and appearance tickets for the violation of the same.
- B. To protect private, public and commercial property in the Town of Palermo from vandalism and illegal trespassing and to enforce the laws of the State of New York.
- C. To enforce the traffic laws of the State of New York, except that the Town Constable shall not engage in high-speed chases in excess of the posted speed limit.
- D. When working in his official capacity, the Town Constable shall, at all times, conduct himself in a courteous and respectful manner, shall identify himself and his office, present proper identification, wear or present the badge of

his office and be in uniform whenever possible. However, the Town Constable shall not carry a firearm.

- E. Notwithstanding the provisions herein contained, the Town Constable shall have the powers and duties of a peace officer as defined in the Criminal Procedure Law, the Penal Law and the Town Law of the State of New York.

Chapter 20

DEFENSE AND INDEMNIFICATION

§ 20-1. Acceptance of statutory provisions.

§ 20-2. Conferral of benefits.

[HISTORY: Adopted by the Town Board of the Town of Palermo 11-11-1985 by L.L. No. 2-1985. Amendments noted where applicable.]

§ 20-1. Acceptance of statutory provisions. [Amended 8-11-1994 by L.L. No. 1-1994]

The Town Board hereby adopts § 18 of the Public Officers Law and confers the benefits thereof upon all town officers and employees. In addition, the Town of Palermo hereby agrees to be held liable for the costs incurred under § 18 of the Public Officers Law, subject to the limitations set forth in said § 18.

§ 20-2. Conferral of benefits.

The town shall provide for the defense of any town officer or employee in any civil action or proceeding arising out of any alleged act or omission in which it is alleged that the officer or employee has violated the civil rights of the claimant, petitioner or plaintiff under Sections 1981 and 1983 of the United States Civil Rights Act. The town shall indemnify and save harmless such officer or employee in the amount of any judgment or settlement claim obtained against such officer or employee. Such legal defense and indemnification shall be provided where the officer or employee at the time of such alleged act or omission was acting in good faith and within the scope of his public employment, powers or duties. The provisions of this section shall be in addition to any other statute, local law or

enactment providing legal defense and indemnification in civil actions brought against such officer or employee.

Chapter 24

DEPUTY SUPERVISOR

§ 24-1. Powers and duties.

§ 24-2. Compensation.

[HISTORY: Adopted by the Town Board of the Town of Palermo 1-8-1993. Amendments noted where applicable.]

§ 24-1. Powers and duties.

Whereas a Deputy Supervisor by law must be ready to fill in for the Supervisor when the Supervisor is incapacitated or out of town, it is in the best interest of the town that the Deputy Supervisor be abreast of all situations and capable of taking action upon matters which would normally be the responsibility of the Supervisor. The following duties are required of the Town of Palermo Deputy Supervisor:

- A. He/she shall be in attendance at Supervisor office hours.
- B. He/she shall attend all meetings which affect the town with the Supervisor or in place of the Supervisor.
- C. He/she shall accept the Chair of any committees which the Supervisor may appoint.

§ 24-2. Compensation. [Amended 8-11-1994 by L.L. No. 1-1994]

The Deputy Supervisor shall be compensated in the amount set by the Town Board.

Chapter 28

ETHICS, CODE OF

- § 28-1. **Purpose.**
- § 28-2. **Definitions.**
- § 28-3. **Standards of conduct.**
- § 28-4. **Claims against town.**
- § 28-5. **Distribution of copies.**
- § 28-6. **Penalties for offenses.**
- § 28-7. **Board of Ethics.**
- § 28-8. **Powers and duties of Board.**

[HISTORY: Adopted by the Town Board of the Town of Palermo 8-24-1993 as L.L. No. 3-1993. Amendments noted where applicable.]

§ 28-1. Purpose.

Pursuant to the provisions of § 806 of the General Municipal Law, the Town Board of the Town of Palermo recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our unit of local government. It is the purpose of this chapter to promulgate these rules of ethical conduct for the officers and employees of the Town of Palermo. The rules of ethical conduct of this chapter, as adopted, shall not conflict with, but shall be in addition to, any prohibition of Article 18 of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.

§ 28-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

INTEREST — A direct or indirect pecuniary or material benefit accruing to a municipal officer or employee as a result of a contract with the municipality which such officer or employee serves. A municipal officer or employee of the Town of Palermo shall be deemed to have "interest" in the contract of a spouse, minor children and dependents, except a contract of employment with the Town of Palermo; a firm, partnership or association of which such officer is a member or employee; a corporation of which such officer or employee is an officer, director or employee; and a corporation, any stock of which is owned or controlled directly or indirectly by such officer or employee.

MUNICIPAL OFFICER OR EMPLOYEE — An officer or employee of the Town of Palermo, whether paid or unpaid, including members of an administrative board, commission or other agency thereof. No person shall be deemed to be a "municipal officer or employee" solely by reason of being a volunteer firemen or civil defense volunteer, except as an engineer.

§ 28-3. Standards of conduct.

Every officer or employee of the Town of Palermo shall be subject to and abide by the following standards of conduct:

- A. Gifts. He shall not, directly or indirectly, solicit a gift or accept or receive any gift having a value of \$75 or more, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties, or was intended as a reward for any official action on his part.

- B. Confidential information. He shall not disclose confidential information acquired by him in the course of his official duties or use such information to further his personal interest.
- C. Representation before one's own agency. He shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he is an officer, member or employee or of any municipal agency over which he has jurisdiction or to which he has the power to appoint any member, officer or employee.

Representation before any agency for a contingent fee. He shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of his municipality, whereby his compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this subsection shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.

- E. Disclosure of interest in legislation. To the extent that he knows thereof, a member of the Town Board or any officer or employee of the Town of Palermo, whether paid or unpaid, who participates in the discussion or gives official opinion to the Town Board on any legislation before the Town Board shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest he has in such legislation.
- F. Investments in conflict with official duties. He shall not invest or hold any investment, directly or indirectly, in any financial business, commercial or other private transaction, which creates a conflict with his official duties.
- G. Private employment. He shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such

employment or service creates a conflict with or impairs the proper discharge of his official duties.

- H. Future employment. He shall not, after the termination of service or employment with such municipality, appear before any board or agency of the Town of Palermo in relation to any case, proceeding or application in which he personally participated during the period of his service or employment or which was under his active consideration.

§ 28-4. Claims against town.

Nothing herein shall be deemed to bar or prevent the timely filing by a present or former municipal officer or employee of any claim, account, demand or suit against the Town of Palermo or any agency thereof on behalf of himself or any member of his family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

§ 28-5. Distribution of copies.

The Supervisor of the Town of Palermo shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the Town of Palermo within 30 days after the effective date of this chapter. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his office or employment. Failure to distribute any such copy or failure of any such officer or employee to receive such copy shall have no effect on the duty of compliance with such code, nor the enforcement thereof.

§ 28-6. Penalties for offenses. [Amended 8-11-1994 by L.L. No. 1-1994]

In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any of the provisions of this code may be fined, suspended or

removed from office or employment, as the case may be, in the manner prescribed by law.

§ 28-7. Board of Ethics.

There is hereby created in the town a Board of Ethics to consist of not fewer than three nor more than five members to be appointed by the Town Board by resolution when needed and who shall serve without compensation and at the pleasure of the Town Board. A majority of such members shall be persons other than the officers or employees of the Town of Palermo, but shall include at least one member who is an elected or appointed officer or employee of the Town of Palermo.

§ 28-8. Powers and duties of Board.

The Board of Ethics shall have the powers and duties prescribed by Article 18 of the General Municipal Law and shall render advisory opinions to the officers and employees of the Town of Palermo with respect to Article 18 of the General Municipal Law and any Code of Ethics adopted pursuant to such Article under such rules and regulations as the Board may prescribe. In addition, the Board may make recommendations with respect to the drafting and adoption of a Code of Ethics or amendments thereto upon request of the Town Board.

Chapter 36

PROCUREMENT POLICY

- 36-1. Initial review; determination of type of purchase; competitive bidding; documentation.**
- § 36-2. Method for securing goods and services.**
- § 36-3. Documentation required.**
- § 36-4. Exceptions.**
- § 36-5. Purchases by Town Superintendent of Highways.**
- § 36-6. When effective; annual review.**

[HISTORY: Adopted by the Town Board of the Town of Palermo 8-24-1993 as L.L. No. 4-1993. Amendments noted where applicable.]

§ 36-1. Initial review; determination of type of purchase; competitive bidding; documentation.

- A. Every purchase to be made must be initially reviewed to determine whether it is a purchase contract or a public works contract. Once that determination is made, a good faith effort will be made to determine whether it is known or can reasonably be expected that the aggregate amount to be spent on the item of supply or service is not subject to competitive bidding, taking into account past purchases and the aggregate amount to be spent in a year. The following items are not subject to competitive bidding pursuant to § 103 of the General Municipal Law: **[Amended 8-11-1994 by L.L. No. 1-1994]**

- (1) Purchase contracts under \$10,000 and public works contracts under \$20,000.
 - (2) Emergency purchases.
 - (3) Certain municipal hospital purchases.
 - (4) Goods purchased from agencies for the blind or severely handicapped.
 - (5) Goods purchased from correctional institutions.
 - (6) Purchases under state and county contracts.
 - (7) Surplus and secondhand purchases from another governmental entity.
- B. The decision that a purchase is not subject to competitive bidding will be determined, in writing, by the individual making the purchase. The documentation may include written or verbal quotes from vendors, a memo from the purchaser indicating how the decision was arrived at, a copy of the contract indicating the source which makes the item or service exempt, a memo from the purchaser detailing the circumstances which led to an emergency purchase or any other written documentation that is appropriate.

§ 36-2. Method for securing goods and services.

- A. All goods and services will be secured by use of written requests for proposals, written quotations, verbal quotations or any other methods that assure that goods will be purchased at the lowest price and that favoritism will be avoided, except in the following circumstances: purchase contracts over \$10,000 and public works contracts over \$20,000; goods purchased from agencies for the blind or severely handicapped pursuant to § 175-b of the State Finance Law; goods purchased from correctional institutions pursuant to § 186 of the Correction Law; purchases under state contracts pursuant to § 104 of the

General Municipal Law; purchases under county contracts pursuant to § 103, Subdivision 3, of the General Municipal Law; or purchases pursuant to § 36-3 of this chapter.

B. The following methods of purchase will be used when required by this chapter in order to achieve the highest savings:

(1) Purchase contracts.

Estimated Amount of Purchase Contract	Method
\$250 to \$2,999	Verbal quotations
\$3,000 to \$4,999	Written/fax quotations
\$5,000 to \$19,999	Written/fax quotations; written requests for proposals

(2) Public works contracts.

Estimated Amount of Public Works Contract	Method
\$250 to \$2,999	Verbal quote
\$3,000 to \$4,999	Written/fax quotation
\$5,000 to \$ 19,999	Written/fax quotations; written requests for proposals

C. A good faith effort shall be made to obtain the required number of proposals or quotations. If the purchaser is unable to obtain the required number of proposals or quotations, the purchaser will document the attempt made at obtaining the proposals. In no event shall the failure to obtain the proposals be a bar to the procurement. **[Amended 8-11-1994 by L.L. No. 1-1994]**

§ 36-3. Documentation required.

- A. Documentation is required of each action taken in connection with each procurement. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- B. Documentation and an explanation is required whenever a contract is awarded to other than the lowest responsible offeror. This documentation will include an explanation of how the award will achieve savings or how the officer was not responsible. A determination that the offeror is not responsible shall be made by the purchaser and may not be challenged under any circumstances.

§ 36-4. Exceptions. [Amended 8-11-1994 by L.L. No. 1-1994]

Pursuant to General Municipal Law § 104-b, Subdivision 2f, the policy may contain circumstances when, or types of purchases for which, in the sole discretion of the governing body, the solicitation of alternative proposals or quotations will not be in the best interest of the municipality. In the following circumstances, it may not be in the best interests of the town to solicit quotations or document the basis for not accepting the lowest bid:

- A. Professional services or services requiring special or technical skill, training or expertise.
- (1) The individual or company must be chosen based on accountability, reliability, responsibility, skill, education and training judgment, integrity and moral worth. These qualifications are not necessarily found in the individual or company that offers the best price, and the nature of these services are such that they do not readily lend themselves to competitive procedures. In determining whether a service fits into this category, the Town Board shall take into consideration the following guidelines:

- (a) Whether the services are subject to state licensing or testing requirements.
 - (b) Whether substantial formal education or training is a necessary prerequisite to the performance of the services.
 - (c) Whether the service requires a personal relationship between the individual and municipal officers.
- (2) Professional or technical services shall include but not be limited to the following: services of an attorney; services of a physician; technical services of an engineer engaged to prepare plans, maps and estimates; securing insurance coverage and/or services of an insurance broker, services of a certified public accountant or investment management services; printing services involving extensive writing, editing or art work; management of municipally owned property; and computer software or programming services for customized programs or services involved in substantial modification and customizing of prepackaged software.
- B. Emergency purchases pursuant to § 103, Subdivision 4, of the General Municipal Law. Due to the nature of this exception, these goods or services must be purchased immediately, and a delay in order to seek alternate proposals may threaten the life, health, safety or welfare of the residents. This section does not preclude alternate proposals if time permits.
- C. Purchases of surplus and secondhand goods from any source. If alternate proposals are required, the Town of Palermo is precluded from purchasing surplus and secondhand goods at auctions or through specific advertised sources where the best prices are usually obtained. It is also difficult to try to compare prices of used goods, and a lower price may indicate an older product.

- D. Goods or services under \$250. The time and documentation required to purchase through this policy may be more costly than the item itself and would, therefore, not be in the best interest of the taxpayer. In addition, it is not likely that such de minimis contracts would be awarded based on favoritism.

§ 36-5. Purchases by Town Superintendent of Highways.

The Superintendent of Highways may make purchases up to \$2,000 without approval of the Town Board as long as the cumulative effect of each of these purchases is not otherwise violative of the bidding requirements of General Municipal Law § 103 or any other pertinent statute.

§ 36-6. When effective; annual review. [Amended 8-11-1994 by L.L. No. 1-1994]

This chapter shall go into effect upon filing with the Secretary of State and will be reviewed annually.

Chapter 39

RESIDENCY REQUIREMENTS

ARTICLE I

Certain Appointed Town Positions

§ 39-1. Exceptions to residency requirements.

[HISTORY: Adopted by the Town Board of the Town of Palermo as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Code Enforcement Officer — See Ch. 12.

ARTICLE I

Certain Appointed Town Positions [Adopted 8-11-1994 by L.L. No. 2-1994]

§ 39-1. Exceptions to residency requirements.

Appointed positions of Code Enforcement Officer, Court Clerk, Recreation Director and Dog Control Officer may be awarded to persons who do not meet residency requirements following the advertising of said positions in the official newspaper, formal interviews of applicants and a majority approval of the Town Board.

Chapter 41

SMOKING

- § 41-1. **General restriction; exceptions.**
- § 41-2. **Enclosed offices.**
- § 41-3. **Conference rooms; enclosed private offices.**
- § 41-4. **Carrying of lit smoking materials.**
- § 41-5. **Vehicles.**
- § 41-6. **Nonsmoking areas in lunchrooms and lounges.**
- § 41-7. **Designation of smoking areas; posting of signs.**
- § 41-8. **Town Courts.**
- § 41-9. **Concerns and complaints.**
- § 41-10. **Posting of policy.**
- § 41-11. **Availability of copies.**
- § 41-12. **Penalties for offenses.**
- § 41-13. **Enforcement.**

[HISTORY: Adopted by the Town Board of the Town of Palermo 8-24-1993 as L.L. No. 5-1993. Amendments noted where applicable.]

§ 41-1. General restriction; exceptions.

Smoking is prohibited in all indoor places of employment of town employees under the jurisdiction and control of the Town of Palermo except in areas specifically designated for smoking.

§ 41-2. Enclosed offices.

Smoking is permitted in an enclosed office occupied by a person who smokes or if it is occupied by more than one (1) person, provided that all persons in that office consent to smoking.

§ 41-3. Conference rooms; enclosed private offices.

- A. Smoking is not permitted in any conference room or meeting room.
- B. Smoking is permitted in any enclosed private office if such office is occupied exclusively by smokers.

§ 41-4. Carrying of lit smoking materials.

No person shall carry a lighted cigarette, cigar or pipe or other smoking material in any indoor hallway, passage or other common area while walking through such area.

§ 41-5. Vehicles.

Smoking shall be prohibited in town-owned vehicles occupied by more than one (1) person unless the occupants of such vehicle agree that smoking may be permitted.

§ 41-6. Nonsmoking areas in lunchrooms and lounges.

Employee cafeterias, lunchrooms and lounges will contain nonsmoking areas as designated by the Town Board to meet employee demand.

§ 41-7. Designation of smoking areas; posting of signs.

Smoking areas will be designed by the Town Board for employees who wish to smoke. Such smoking areas will be clearly marked by a sign stating "Smoking Permitted."

§ 41-8. Town Courts.

The smoking policy in Town Courts will be no smoking.

§ 41-9. Concerns and complaints.

Employees are encouraged to present any concerns to their supervisor and may register a complaint with the county enforcement officer.

§ 41-10. Posting of policy.

The copy of this policy shall be posted upon the town bulletin board and in each separate building in which town employees work.

§ 41-11. Availability of copies.

Upon request, the town will supply a copy of the smoking policy as herein set forth to any current or prospective employee.

§ 41-12. Penalties for offenses.

Employees found smoking outside of designated smoking areas will be considered in violation of this policy and may be subject to the penalty prescribed by the State Health Commissioner and/or disciplinary action by the town.

§ 41-13. Enforcement.

The Code Enforcement Officer or his designee shall be designated an agent in the enforcement of this policy by notifying employees who are in violation.

Chapter 48

ANIMALS

ARTICLE I Dogs

- § 48-1. Findings and purpose.**
- § 48-2. Statutory authority.**
- § 48-3. Title.**
- § 48-4. Definitions.**
- § 48-5. Restrictions.**
- § 48-6. Enforcement.**
- § 48-7. Seizure, impoundment, redemption and adoption.**
- § 48-8. Complaints.**
- § 48-9. Appearance tickets.**
- § 48-10. (Reserved)**
- § 48-11. Penalties for offenses.**

[HISTORY: Adopted by the Town Board of the Town of Palermo as indicated in article histories. Amendments noted where applicable.]

PALERMO CODE

ARTICLE I

Dogs

[Adopted 7-26-1982 by L.L. No. 1-1982]

§ 48-1. Findings and purpose.

The Town of Palermo, Oswego County, New York, finds that the running at large and other uncontrolled behavior of dogs has caused physical harm to persons and damage to property and has created nuisances within the town. The purpose of this Article is to protect the health, safety and well-being of persons and property by imposing restrictions and regulations upon the keeping or running at large of dogs and the seizure thereof within the town.

§ 48-2. Statutory authority.

This Article is enacted pursuant to the provisions of § 124 of Article 7 of the Agriculture and Markets Law.

§ 48-3. Title.

The title of this Article shall be the "Dog Control Law of the Town of Palermo."

§ 48-4. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

AT LARGE — Any dog that is unleashed and on property open to the public or is on private property not owned or leased by the owner of the dog unless permission for such presence has been obtained. No dog shall be deemed to be "at large" if it is:

- A. Accompanied by and under the immediate supervision and control of the owner or other responsible person.
- B. A police work dog in use for police work.

- C. Accompanied by its owner or other responsible person and is actively engaged in hunting or training for hunting on unposted land or on posted land with the permission of the owner of the land.

HARBOR — To provide food or shelter to any dog.

OWNER — Any person who harbors or keeps any dog. In the event that any dog found in violation of this Article shall be owned by a person under 16 years of age, the "owner" shall be deemed to be the parent or guardian of such person or the head of the household in which said person resides.

§ 48-5. Restrictions.

- A. It shall be unlawful for any owner of any dog to permit or allow such dog in the Town of Palermo:
- (1) To be at large.
 - (2) To engage in habitual loud howling, barking, crying and whining or to conduct itself in such a manner so as to habitually annoy any person.
 - (3) To cause damage or destruction to property or commit a nuisance by defecating or urinating upon the premises of a person, other than the owner of such dog.
 - (4) To chase or otherwise harass any person in such a manner as reasonably to cause intimidation or to put such person in reasonable apprehension of bodily harm or injury.
 - (5) To habitually chase, run alongside of or bark at motor vehicles or bicycles.
- B. Every female dog in heat shall be confined in a building or secure enclosure in such a manner that such female dog cannot come into contact with other animals except for planned breeding.

§ 48-6. Enforcement.

This Article shall be enforced by any Dog Control Officer, peace officer, when acting pursuant to his special duties, or police officer in the employ of or under contract to the Town of Palermo.

§ 48-7. Seizure, impoundment, redemption and adoption.

- A. Any dog found in violation of the provisions of § 48-5 of this Article may be seized pursuant to the provisions of § 118 of the Agriculture and Markets Law.
- B. Every dog seized shall be properly cared for, sheltered, fed and watered for the redemption periods set forth in § 118 of the Agriculture and Markets Law.

Seized dogs may be redeemed by producing proof of licensing and identification pursuant to the provisions of Article 7 of the Agriculture and Markets Law and by paying the impoundment fees set forth in § 118 of said Article. The owner of any seized dog shall also pay a fee for the keeping of any seized dog, such fee to be set by resolution of the Town Board from time to time.¹ The Town Board of the Town of Palermo hereby enacts this fee pursuant to the power given to do so in Article 118, Subdivision 4, of the New York State Agriculture and Markets Law. **[Amended 12-19-1988 by L.L. No. 2-1988; 8-11-1994 by L.L. No. 1-1994]**

- D. If the owner of any unredeemed dog is known, such owner shall be required to pay the impoundment fees set forth in Subsection C of this section whether or not such owner chooses to redeem his or her dog.
- E. Any dog unredeemed at the expiration of the appropriate redemption period shall be made available for adoption or euthanized pursuant to the provisions of § 118 of the Agriculture and Markets Law. Adoption fees shall be set

1. **Editor's Note: The current fee schedule is on file in the Town Clerk's office.**

by resolution of the Town Board from time to time.² Any adopted dog must be spayed or neutered upon reaching six months of age or within two months for dogs six months or older. **[Amended 8-11-1994 by L.L. No. 1-1994]**

§ 48-8. Complaints.

Any person who observes a dog in violation of this Article may file a complaint under oath with a Justice of the Town of Palermo specifying the nature of the violation, the date thereof, a description of the dog and the name and residence, if known, of the owner of such dog. Such complaint may serve as the basis for enforcing the provisions of this Article.

§ 48-9. Appearance tickets.

Any Dog Control Officer, peace officer, when acting pursuant to his special duties, or police officer in the employ of or under contract to the Town of Palermo observing a violation of this Article in his presence shall issue and serve an appearance ticket for such violation.

§ 48-10. (Reserved)³

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2. **Editor's Note: The current fee schedule is on file in the Town Clerk's office.**
 3. **Editor's Note: Former § 48-10, Fees, added 12-19-1988 by L.L. No. 2-1988, was repealed 10-24-1995 by L.L. No. 2-1995.**

§ 48-11. Penalties for offenses. [Amended 8-11-1994 by L.L. No. 1-1994]

Except as may otherwise be provided in the Agriculture and Markets Law, any person or persons, firm or corporation who violates any provisions of this Article shall be guilty of a misdemeanor and shall be subject to a maximum fine of \$1,000 or imprisonment for not more than one year, or both.

Chapter 54

BINGO

§ 54-1. Authorization for conduct of games.

[HISTORY: Adopted by the Town Board of the Town of Palermo 5-10-1971;¹ amended in its entirety 8-11-1994 by L.L. No. 1-1994. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Games of chance — See Ch. 73.

§ 54-1. Authorization for conduct of games.

It shall be lawful for any authorized organization, as defined in § 476 of the General Municipal Law, to conduct the game of bingo within the territorial limits of the Town of Palermo, subject to the licensing procedures and regulations set forth in Article 14-H of the General Municipal Law and the provisions of Article 19-B of the Executive Law or any rules and regulations promulgated pursuant to either Article.

1. **Editor's Note:** These provisions were passed at permissive referendum at the special election held June 8, 1971.

Chapter 56

BUILDINGS AND LAND, UNSAFE

- § 56-1. Findings; purpose.
- § 56-2. Title.
- § 56-3. Definitions.
- § 56-4. Investigation and report.
- § 56-5. Town Board order.
- § 56-6. Notice; contents.
- § 56-7. Service of notice.
- § 56-8. Refusal to comply; survey.
- § 56-9. Application to court.
- § 56-10. Assessment of expenses.
- § 56-11. Emergencies.
- § 56-12. Surveyor compensation.

[HISTORY: Adopted by the Town Board of the Town of Palermo 6-23-1998 by L.L. No. 1-1998. Amendments noted where applicable.]

GENERAL REFERENCES

Code Enforcement Officer — See Ch. 12.

Electrical inspectors — See Ch. 62.

Fire prevention and building construction — See Ch. 67.

§ 56-1. Findings; purpose.

Unsafe buildings pose a threat to life and property in the Town of Palermo. Likewise, unsafe lands pose a threat to life and health in the Town of Palermo. Buildings and structures may

become unsafe by reason of damage by fire, the elements, age, or general deterioration. Vacant buildings not properly secured at doorways and windows also serve as an attractive nuisance for young children who may be injured therein, as well as a point of congregation by vagrants and transients. A dilapidated building may also serve as a place of rodent infestation, thereby creating a health menace to the community. Unsafe land which is kept in a hazardous condition creates like nuisance to the general public of the Town. It is the purpose of this chapter to provide for the safety, health, protection and general welfare of persons and property in the Town of Palermo by requiring that such unsafe buildings be repaired or demolished and removed, and that unsafe land be repaired and/or modified so as to protect the public.

§ 56-2. Title.

This chapter shall be known as the "Unsafe Buildings and Unsafe Land Law of the Town of Palermo."

§ 56-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

BUILDING — Any building, structure or portion thereof used for residential, business, industrial or personal purposes.

BUILDING INSPECTOR — The Building Inspector of the Town of Palermo or such other person appointed by the Town Board to enforce the provisions of this chapter.

UNSAFE LAND — Any lands within the Town of Palermo, whether occupied by structures or not.

§ 56-4. Investigation and report.

A. **Unsafe buildings.** When, in his own opinion or upon receipt of information that a building is or may become dangerous

BUILDINGS AND LAND, UNSAFE

§ 56-4

§ 56-6

or unsafe to the general public, is open at the doorways and windows making it accessible to and an object of attraction to minors under 18 years of age, as well as to vagrants and other trespassers, is or may become a place of rodent infestation, presents any other danger to the health, safety, morals and general welfare of the public, or is unfit for the purposes for which it may lawfully be used, the Building Inspector shall cause or make an inspection thereof and report in writing to the Town Board his findings and recommendations in regard to its repair or demolition and removal.

- B. Unsafe lands. When, in his own opinion or upon receipt of information that lands in the Town of Palermo are or may become dangerous or unsafe to the general public, are or may become a place of rodent infestation, represent any other danger to the health, safety, morals and general welfare of the public, or are unfit for the purposes for which said lands may lawfully be used, the Building Inspector shall cause or make an inspection thereof and report in writing to the Town Board his findings and recommendations in regard to the repair of the land.

§ 56-5. Town Board order.

The Town Board shall thereafter consider such report and by resolution determine, if in its opinion the report so warrants, that such building or land is unsafe and dangerous and order its repair if the same can be safely repaired or, in the case of buildings, its demolition or removal, if necessary, and further order that a notice be served upon the person or persons responsible for said properties and in the manner provided herein.

§ 56-6. Notice; contents.

The notice shall contain the following:

- A. A description of the premises.
- B. A statement of the particulars in which the building or land is unsafe or dangerous.
- C. An order outlining the manner in which the building or land is to be made safe and secure and/or, in the case of buildings, demolished and removed.
- D. A statement that the securing of the land or building or removal of such building, if that be the case, shall commence within 30 days of the service of the notice and shall be completed within 60 days thereafter.

A statement that in the event of neglect or refusal of the person served with the notice to comply with the same, a survey of the premises will be made, and if such survey shall report the building or land unsafe or dangerous, an application will be made at Special Term of the Supreme Court in the judicial district in which the property is located for an order determining the building and/or land to be a public nuisance and directing that it shall be repaired and secured or, in the case of buildings, demolished and removed and that the expenses of the proceeding to secure or remove, including the actual cost of securing or removing such buildings, shall be assessed against the land on which it is located.

§ 56-7. Service of notice.

The notice shall be served by:

- A. Personal service of a copy thereof upon the owner, executor, administrator, agent, lessee or any person having a vested or contingent interest in such unsafe buildings or land as shown by the records of the Receiver of Taxes (or Tax Collector) or the County Clerk; or if no such person can be reasonably found by mailing such owner by registered mail a copy of such notice directed to his last known address as shown by the above records; and

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§ 56-9

- B. Personal service of a copy of such notice upon any adult person residing in or occupying said premises if such person can be reasonably found; and
- C. Securely affixing a copy of such notice upon the unsafe building.

§ 56-8. Refusal to comply; survey.

In the event of the refusal or neglect of the person so notified to comply with said order of the Town Board, the Town Board shall appoint the Building Inspector and a professional building engineer (in the case of buildings), or, in either case, an architect, and/or professional engineer and the person so notified shall appoint a professional engineer or architect to make a survey of the unsafe building or land and submit a written report thereon. If the person so notified shall refuse or neglect to appoint such a surveyor within 40 days after service of said notice, the two surveyors by the Town Board shall procure and make the report. A signed copy of such report shall be affixed securely to such unsafe building and, in the case of land, a signed copy of the report shall be provided to the owner of the land where reasonably possible.

§ 56-9. Application to court.

In the event the building or land shall be reported unsafe or dangerous in such survey, the Town Board may by resolution direct the Supervisor of the Town to make an application at a Special Term of the Supreme Court in the judicial district in which such property is located for an order determining the building or land to be a public nuisance and directing that it shall be repaired or secured or, in the case of buildings, demolished and removed.

§ 56-10. Assessment of expenses.

All expenses incurred by the Town in connection with the proceedings to repair and secure or demolish and remove the unsafe building, or land, including the cost of actually removing any building, shall be assessed against the land on which such building is located and shall be levied and collected in the same manner as provided in Article 15 of the Town Law for the levy and collection of a special ad valorem levy.

§ 56-11. Emergencies.

Where it reasonably appears that there is present a clear and imminent danger to the life, safety or health of any person or property, unless an unsafe building or land is immediately repaired and secured or demolished, as the case may be, the Town Board may by resolution authorize the Building Inspector to immediately cause the repair or demolition of such unsafe building or land. The expenses of such repair or demolition shall be a charge against the land on which it is located and shall be assessed, levied and collected as provided for in § 56-10 hereof.

§ 56-12. Surveyor compensation.

The surveyor appointed as provided herein shall be paid reasonable compensation as shall be fixed by the Town Board.

Chapter 62

ELECTRICAL INSPECTORS

- § 62-1. Findings and purpose.
- § 62-2. Statutory authority.
- § 62-3. Title.
- § 62-4. Definitions.
- § 62-5. Application; issuance of license; renewal notice.
- § 62-6. Term of license; renewal.
- § 62-7. Fees.
- § 62-8. Licensee responsibility; inspections; certificates of compliance.
- § 62-9. Penalties for offenses.

[HISTORY: Adopted by the Town Board of the Town of Palermo 7-7-1992 as L.L. No. 2-1992. Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention and building construction — See Ch. 67.

§ 62-1. Findings and purpose.

The Town of Palermo, County of Oswego, New York, finds that it is being placed in jeopardy because a structure can be supplied with electricity by the local utility company even though said structure was placed or constructed within the town without complying with local or state laws. In order to protect the Town of Palermo from the liability of such action

taking place and possible lawsuits over not enforcing our local and state laws, it is the purpose of this chapter to have all persons, companies or organizations who do electrical inspections and furnish the local utility companies with certificates of inspection be licensed by the town and to have the following procedures established by the town for the issuing of certificates of inspection be followed.

§ 62-2. Statutory authority.

This chapter is enacted pursuant to the provisions of Municipal Home Rule Law § 10, General powers of local governments to adopt and amend local laws.

§ 62-3. Title.

The Title of this chapter shall be "Licensing of Electrical Inspectors in the Town of Palermo."

§ 62-4. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CERTIFICATES OF INSPECTION — Any document accepted by the local utility company which tells it that it may proceed and furnish electricity to a structure.

ELECTRICAL INSPECTORS — Any individual, company or organization who is recognized by the local utility company to do inspections of electrical work in the State of New York and issue certificates of inspection.

LICENSE — A certificate which indicates who and for what period of time said person, company or organization may operate in the Town of Palermo.

STRUCTURE — Any building being placed in the Town of Palermo which requires electrical power to be supplied to it by the local utility company.

§ 62-5. Application; issuance of license; renewal notice.

- A. Any individual, company or organization wishing to do electrical inspections in the Town of Palermo shall fill out an application to do so. Said application shall be reviewed by the Town Board of the Town of Palermo and approved or disapproved.
- B. Upon approval, the Town Clerk shall issue a town license allowing the applicant to work within the Town of Palermo.
- C. Thirty days before the expiration of the license, the Town Clerk shall send the applicant its renewal application for the following year.

§ 62-6. Term of license; renewal.

The license shall be valid for one year from the date of issuance and shall be reviewed by the Palermo Town Board before the next renewal.

§ 62-7. Fees. [Amended 8-11-1994 by L.L. No. 1-1994]

A fee as set forth from time to time by resolution of the Town Board shall be charged per year for said license.¹ Such fee shall accompany the application and shall be refunded if the application is denied.

1. Editor's Note: The current fee schedule is on file in the Town Clerk's office.

§ 62-8. Licensee responsibility; inspections; certificates of compliance.

- A. Any person, company or organization holding a license shall submit to the Code Enforcement Officer all certificates of compliance or electrical inspection of new residences or structures in the Town of Palermo.
- B. All applications for electrical inspections of new residences or structures shall show the local building permit number, and if the applicant cannot furnish such, inspection shall be denied.
- C. All certificates of compliance shall show the local building permit number.

§ 62-9. Penalties for offenses. [Amended 8-11-1994 by L.L. No. 1-1994]

Any person or persons, firm or corporation who violates any provisions of this chapter shall be guilty of a misdemeanor and shall be subject to a maximum fine of \$1,000 or imprisonment for not more than one year, or both.

Chapter 67

FIRE PREVENTION AND BUILDING CONSTRUCTION

ARTICLE I

Construction, Alteration and Replacement of Buildings and Structures

- § 67-1. Title.
- § 67-2. Definitions.
- § 67-3. Building, alteration and replacement prohibited without permit.
- § 67-4. Storage of uninhabited structure outside mobile home park.
- § 67-5. Sale of uninhabited structure.
- § 67-6. Penalties for offenses.

ARTICLE II

Administration and Enforcement of State Code

- § 67-7. Purpose.
- § 67-8. Effective date.
- § 67-9. Administration and enforcement.
- § 67-10. Definitions.
- § 67-11. Rules and regulations; publication.
- § 67-12. Powers and duties of enforcement official.
- § 67-13. Building permits.
- § 67-14. Inspections.
- § 67-15. Violations.
- § 67-16. Penalties for offenses.

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- § 67-17. **Right of entry.**
- § 67-18. **Fees.**
- § 67-19. **Stop orders.**
- § 67-20. **Certificates of occupancy.**
- § 67-21. **Department records and reports.**
- § 67-22. **State Regional Board of Review.**

ARTICLE III Residential Lots of Record

- § 67-23. **Title.**
- § 67-24. **Purpose.**
- § 67-25. **Authority.**
- § 67-26. **Construction on lots of record.**
- § 67-27. **Procedure.**

[HISTORY: Adopted by the Town Board of the Town of Palermo as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Code Enforcement Officer — See Ch. 9.
Unsafe buildings and land — See Ch. 56.
Electrical inspectors — See Ch. 62.
Mobile home parks — See Ch. 91.
Site plan review — See Ch. 114.
Subdivision of land — See Ch. 125.

ARTICLE I

**Construction, Alteration and Replacement of Buildings
and Structures**

[Adopted 8-27-1979 by L.L. No. 2-1979]

§ 67-1. Title.

This Article shall be known as a "Local Law Regulating the Construction, Alteration and Replacement of Buildings and Structures in the Town of Palermo, Oswego County, New York."

§ 67-2. Definitions. [Added 8-11-1994 by L.L. No. 1-1994]

As used in this article, the following terms shall have the meanings indicated:

ENFORCEMENT OFFICIAL — The Code Enforcement Officer, an officer of the Fire Department or an official inspection agency, or any combination of these.

§ 67-3. Building, alteration and replacement prohibited without permit. [Amended 1-28-1986 by L.L. No. 1-1986; 9-25-1990 by L.L. No. 3-1990; 8-11-1994 by L.L. No. 1-1994; 10-2-2001 by L.L. No. 4-2001]

No dwelling, building, structure or manufactured home shall be placed, built, replaced or rebuilt nor shall repair or construction take place thereon within the Town of Palermo, County of Oswego, State of New York, unless a building permit shall be issued pursuant to a plan and application submitted as hereinafter set forth.

- A. "Dwelling" is defined as any building or structure used for habitation by one family; a single-family residence. Any dwelling, building structure or manufactured home to be used as a residence shall be placed on a stable foundation and shall be skirted to the ground with a fire-resistant material.

- B. The dwelling, building, structure or manufactured home shall have a minimum of 980 square feet in floor space, exclusive of garages, patios and outbuildings. The installation or relocation of a manufactured home more than 10 years of age is prohibited in the Town of Palermo unless the manufactured home meets the following conditions:
- (1) The manufactured home shall be no more than 15 years of age.
 - (2) The manufactured home shall be inspected and approved by the Code Enforcement Officer for the Town of Palermo.
 - (3) The building permit applicant shall provide a written electrical inspection report from a licensed electrician.

The lot on which the dwelling, building, structure or manufactured home is to be placed shall have a minimum of 175 feet of road frontage and a depth of 200 feet for each dwelling unit located thereon. "Road frontage" is defined as access to a public road or a private road, with a minimum right-of-way of 66 feet in width, with access to a public road. The applicant shall provide a survey of said lot when applying for a building permit.

- D. Each dwelling, building, structure or manufactured home shall be constructed, repaired, rebuilt or replaced so that no portion of said building or structure shall be closer than 25 feet to any road or street right-of-way, closer than 20 feet to any other side or rear boundary or closer than 40 feet to an adjoining property owner's structure.
- E. Any dwelling, building, structure or manufactured home to be used for a residence shall provide that all sewage and other water-carried wastes shall be disposed of by adequate septic tanks. Each septic system or sewage treatment system shall be designed by a licensed professional engineer or a licensed land surveyor, must

have a soil percolation test performed on site and must be designed and installed in accordance with New York State regulations and the Oswego County Health Department standards.

- F. The water supply to any structure used as a residence shall be approved by the enforcement official and shall be a minimum of 100 feet from any septic drain.¹
- G. Any dwelling, building, structure or manufactured home not erected on ground level shall be provided with skirting from the bottom of said structure to the ground level on all sides. Said skirting shall be of an opaque material commonly used as exterior facing in the construction industry. Said skirting shall be completed within 60 days of the placement of the structure on the property.
- H. Section 67-3A and C above shall not apply to the following:
- (1) Buildings erected upon a farm by the owner and used for farming purposes.
 - (2) Buildings erected by an established manufacturing plant upon its own property for manufacturing purposes.²

§ 67-4. Storage of uninhabited structure outside mobile home park. [Amended 10-2-2001 by L.L. No. 4-2001]

Any uninhabited structure capable of being used as a residence may be parked or stored outside of a licensed manufactured home park; provided, however, that it shall not be parked

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1. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
 2. Editor's Note: Former Section 3, Permits for Fire, Natural Disaster, and Mobile Home Replacement; Section 4, Appointment of Building Inspector(s); Section 5, Duties and Powers of Building Official; Section 6, Inspection; and Section 7, Department Records and Reports, all of which immediately followed this section, were deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I. See now Art. II, §§ 67-9, 67-12B, 67-13B(2), 67-17 and 67-21.

between the street line and the front building line of the premises upon which it shall be stored, and that it does not violate the conditions of § 67-3D of this article.

§ 67-5. Sale of uninhabited structure. [Amended 10-2-2001 by L.L. No. 4-2001]

A structure capable of being used as a residence exhibited for sale and uninhabited as living quarters may be maintained outside of a licensed manufactured home park. One such structure in a sales lot may be used as a sales office, provided that the owner thereof and/or the owner of the premises upon which it is so displayed shall install and use a sewage disposal system equal to that required by a two-bedroom dwelling, if sanitary facilities are provided.³

§ 67-6. Penalties for offenses. [Amended 8-11-1994 by L.L. No. 1-1994]

Any owner, lessee, architect, builder or the agent of any of them who violates or is an accessory to the violation of any of the provisions of this article, including failure to apply for a building permit, shall be guilty of a misdemeanor and, upon the conviction therefor, shall be liable to the assessment of a fine, not exceeding in any one case or violation, \$1,000. Said persons shall also be liable to pay a penalty, to be collected in a civil action, in the amount of \$50 for each day that said violation shall be in effect after having been placed on notice, said penalty to be collected in the civil action, together with the

3. **Editor's Note: Former Section 10, Licensing; Section 11, Revocation of permit; Section 12, Inspection; Section 13, Review; Section 14, Expiration of permit; and Section 15, Fees, all of which immediately followed this section, were deleted 8-11-1994 by L.L. No. 1-1994. See now Art. II of this chapter.**

costs and disbursements of said action, and any action so brought shall be for any one violation or accumulation of violations. The imposition of all penalties for any violation of the provisions of this article shall not be held to prevent the enforced removal of conditions prohibited by this article or the taking of such other action as may be authorized by law. A second violation of any of the provisions of this law within one year shall result in a fine of up to \$1,000 and incarceration not to exceed one year.

ARTICLE II

Administration and Enforcement of State Code
[Adopted 7-28-1986 by L.L. No. 2-1986]

§ 67-7. Purpose.

This Article shall provide the basic method for administration and enforcement of the New York State Uniform Fire Prevention and Building Code in the Town of Palermo and shall establish powers, duties and responsibilities in connection therewith.

§ 67-8. Effective date.

This local law shall take effect on the first day of August 1986.

§ 67-9. Administration and enforcement. [Amended 8-11-1994 by L.L. No. 1-1994]

The governing body shall designate an enforcement official to administer and enforce the provisions of the New York State Uniform Fire Prevention and Building Code within the Town of Palermo.

§ 67-10. Definitions. [Added 8-11-1994 by L.L. No. 1-1994]

As used in this article, the following terms shall have the meanings indicated:

ENFORCEMENT OFFICIAL — The Code Enforcement Officer, an officer of the Fire Department or an official inspection agency, or any combination of these.

§ 67-11. Rules and regulations; publication.

- A. The Town of Palermo shall promulgate rules and regulations to secure the intent and purposes of this article and a proper enforcement of the laws, ordinances, rules and regulations governing building plans, specifications, construction, alteration and repairs.
- B. The Town of Palermo shall publish all rules and regulations at least 30 days prior to the effective date thereof in a newspaper of general circulation within the Town of Palermo.

**§ 67-12. Powers and duties of enforcement official.
[Amended 8-11-1994 by L.L. No. 1-1994]**

- A. Except as otherwise specifically provided by law, ordinance, rule or regulation, or except as herein otherwise provided, the enforcement official shall administer and inspect the provisions of laws, ordinances, rules and regulations applicable to the plans, specifications or permits for the construction, alteration and repair of buildings and structures and the installation and use of materials and equipment therein and the location, use and occupancy thereof.
- B. He shall have the power to adopt rules, with the consent of the Town Board, to secure the intent and purposes of this article and a proper enforcement of the laws, ordinances and regulations governing building construction.
- C. The enforcement official shall receive applications and issue permits for the placement, erection, alteration, repair and replacement of buildings and structures or parts thereof and shall examine the premises for which such application has been received, plans approved or such

permits have been issued for the purpose of ensuring compliance with the laws, ordinances, rules and regulations governing building construction or alteration.

- D. The enforcement official shall issue, in writing, to the municipality all appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction and to ensure compliance during the entire course of construction with the requirements of such laws, ordinances, rules and regulations and such notices or orders which may be served upon the property owner or his agent personally by the Town of Palermo or by sending by certified mail a copy of such order to the owner or his agent at the address set forth in the application for permission for the construction or alteration of such building and by posting the same upon a conspicuous place of the premises to which the notice applies. He shall make all inspections which are necessary or proper for the carrying out of his duties.
- E. Whenever the same may be appropriate to determine compliance with the provisions of applicable laws, ordinances, rules or regulations covering building construction or alteration, he may, at his discretion, accept and rely upon a written report of tests in the field by experienced, professional persons or by an accredited authoritative testing laboratories or service and inspection bureaus or agencies.
- F. The official inspection agency may issue a certificate of occupancy where appropriate for a building constructed or altered in accordance with the provisions of the New York State Uniform Fire Prevention and Building Code, which such certification shall certify that the building conforms to the requirements of the State Uniform Code.
- G. The enforcement official shall order, in writing, the remedying of all conditions found to exist in or on any premises in violation of provisions of any law, ordinance or regulations adopted by the Code Enforcement Officer or Town Board, to state in the violation order a reasonable

time limit for compliance therewith and, where necessary, to order the vacation of premises found unfit for human habitation.

- H. The enforcement official shall request the attorney for the town, with the approval of the Town Board, to take appropriate legal action upon failure of the responsible party to comply with such violation order within the time specified therein.

§ 67-13. Building permits.

- A. No person, firm or corporation shall commence the erection, construction, alteration, enlargement, improvement, conversion or change in the nature of the occupancy of any building or structure or cause the same to be done without first obtaining a separate building permit from the official inspection agency for each such building or structure, except that no building permit shall be required for the performance of ordinary repairs which are not structural in nature.
- B. Required information; permits free of charge in certain cases.
- (1) Application for a building permit shall be made to the official inspection agency on forms provided by it and shall contain the following information:
- (a) A description of the land on which the proposed work is to be done.
 - (b) A statement of the use or occupancy of all parts of the land and the proposed building or structure.
 - (c) The valuation of the proposed work.
 - (d) The signature of the applicant or agent.

- (e) The full name and address of the owner and of the applicant and the full names and addresses of their responsible officers, if any of them are corporations, and the name and address of the owner's authorized agent, if any.
 - (f) A brief description of the nature of work.
 - (g) Such other information as may be reasonably required by the inspector to establish compliance of the proposed work with the requirements of the applicable building laws, ordinances, rules and regulations.
- (2) Building permits will be issued free of charge for persons wishing to repair or replace homes or mobile homes destroyed by fire or natural disaster. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- C. The application shall be made by the owner or by his agent, architect, engineer or builder employed in connection with the proposed work. Where such application is made by a person other than the owner, it shall be accompanied by an affidavit of the owner that the proposed work is authorized by the owner and that the applicant is authorized to make such application, and the affidavit shall contain a statement that the owner authorizes the applicant to permit the enforcement official to enter upon the premises without a search warrant. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- D. Each application for a building permit shall be accompanied by duplicate copies of specifications, including plot plan drawn to scale, showing locations and size of all proposed new construction and all existing structures on the site, the nature of the character of the work to be performed and the materials to be incorporated, distance from lot lines, walks, alleys and, where required by the enforcement official, details of structural, mechanical and electrical work, including computations, stress diagrams and other essential data. Plans and specifications, when

required, shall bear the signature of the person responsible for the design and drawings. **[Amended 8-11-1994 by L.L. No. 1-1994]**

- E. All new construction consisting of 1,500 square feet or more, plus any commercial business consisting of 1,500 square feet or more, plus all industrial buildings, will require submitted plans, including a professional engineer's approval, before a building permit will be issued.
- F. Amendments, if any, to the application or to the plans and specifications accompanying the same shall be filed with the Town of Palermo and with the enforcement official and approval shall be received from the inspector prior to the commencement of such change of work. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- G. The enforcement official shall examine or cause to be examined all applications for permits and the documents filed therewith. He shall then approve or disapprove the application. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- H. Upon approval of the application and upon receipt of the fees therefor, the designated inspection agency shall issue a building permit to the applicant upon forms prescribed by it.
- I. If the application, together with other documents filed therewith, describes work which does not conform to all of the requirements of the applicable building regulations, the enforcement official shall disapprove the same. Upon request of the applicant, the enforcement official shall cause the refusal, together with the reasons therefor, to be transmitted to the applicant in writing. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- J. A building permit shall be effective to authorize the commencing of work for a period of six months after the date of its issuance. For good causes, the enforcement official may allow a maximum of two extensions for periods

not exceeding three months each. All work shall conform to the approved application and shall be in accordance with applicable laws, ordinances, rules and regulations. **[Amended 8-11-1994 by L.L. No. 1-1994]**

- K. A building permit shall be predominately displayed on the job site at all times during the progress of the work so as to be readily seen from adjacent thoroughfares.
- L. The enforcement official may revoke a permit in the following instances: **[Amended 8-11-1994 by L.L. No. 1-1994]**
- (1) Where he finds that there has been any false statement or misrepresentation as to a material fact in the application or other documents on which the building permit was based.
 - (2) Where he finds that the building permit was issued in error and should not have been issued in accordance with the applicable law.
 - (3) Where he finds that the work performed under the permit is not being prosecuted in accordance with the applicable law and provisions of the application.
 - (4) Where the person to whom a building permit has been issued fails or refuses to comply with a stop order issued by the enforcement official.
- M. No building permit shall be issued unless the proposed construction is in compliance with Town of Palermo Local Law 2-79.⁴

§ 67-14. Inspections.

- A. Before issuing a certificate of occupancy, the official inspection agency shall examine or cause to be examined all buildings, structures and sites for which an application

4. Editor's Note: See Art. I of this chapter.

has been filed for a building permit to construct, alter, enlarge, repair or change the use or nature of occupancy, and he may conduct such inspections as he deems appropriate from time to time during and upon completion of the work for which a building permit has been issued. There shall be maintained by the official inspection agency a record of all such inspections and examinations, together with a record of findings of violations of law.

- B. Existing buildings subject to inspection under Subdivision A of this section shall be subject to periodic inspections for compliance with the Uniform Code. Such inspections may be made at any reasonable time.
- C. If entrance to make an inspection is refused or cannot be obtained, the Town of Palermo, after being notified by the enforcement official of the situation, may apply for a warrant to make an inspection to any court of competent jurisdiction. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- D. The periodic inspections to meet compliance with the above-mentioned provisions shall be agreed upon between the governing body and the official inspection agency.

§ 67-15. Violations. [Amended 8-11-1994 by L.L. No. 1-1994]

In accordance with § 382 of the Executive Law of the State of New York:

- A. It shall be unlawful for any person, firm or corporation to construct, alter, repair, move, equip, use or occupy any building or structure or portion thereof in violation of any provision of law or ordinance, as well as any rule or regulation promulgated by the municipality in accordance with applicable laws, or fail in any manner to comply with a notice or directive or order of the municipality or to construct, alter, use or occupy any building or structure or part thereof in a manner not permitted by an approved building permit or certificate of occupancy.

- B. Any person who shall fail to comply with a written order within the time fixed for compliance therewith and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendents or their agents or any person taking part or assisting in the construction or use of the building who shall knowingly violate any of the applicable provisions of law or any lawful order, notice, directive, permit or certificate of the inspector made thereunder shall be punishable by fine or imprisonment, or both. Each week that a violation continues shall be deemed a separate offense.
- C. Whenever the designated enforcement official finds that there has been a violation of the State Uniform Code, this article or any rule or regulation adopted pursuant to this article, a violation order shall be issued to the person or persons responsible by the local municipality of the issuing enforcement official.
- D. Violation orders shall be in writing; shall identify the property or premises; shall specify the violation and remedial action to be taken; shall provide a reasonable time limit for compliance; and shall state the time within which an appeal may be taken.
- E. Violation orders may be served by personal service, by mailing by registered or certified mail or by posting a copy thereof in a conspicuous place on the premises and by mailing a copy thereof to the premises on the same day as posted, enclosed in a postpaid wrapper addressed to the person responsible.
- F. In case the owner, lessor, occupant or the agent of any of them shall fail, neglect or refuse to remove, eliminate or abate the violation within the time specified, legal action shall be made to the Town Board of the Town of Palermo.

§ 67-16. Penalties for offenses.

- A. Failure to comply with any provision of the New York State Uniform Fire Prevention and Building Code, this article, rules or regulations adopted pursuant to this article or a violation order shall be deemed a violation, and the violator shall be liable for a maximum fine of not more than \$1,000 or imprisonment not to exceed one year, or both. Each week such violation continues shall constitute a separate violation. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- B. An action or proceeding in the name of the Town of Palermo may be commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of the Uniform Code, this article, any rules or regulations adopted pursuant to this article or a violation order or to vacate the occupancy or building in the case of imminent danger to life or property. Such remedy shall be in addition to penalties otherwise prescribed by law.
- C. Except as otherwise provided by law, such violation shall not be a crime and the penalty or punishment imposed therefor shall not be deemed for any purpose a penal or criminal penalty or punishment and shall not impose any disability upon or affect or impair the credibility as a witness, or otherwise, of any person found guilty of such an offense.

§ 67-17. Right of entry. [Amended 8-11-1994 by L.L. No. 1-1994]

- A. The enforcement official, upon showing of proper credentials and in discharge of his duties, shall be permitted to enter upon any building, structure or premises without interference, during reasonable working hours.

- B. The enforcement official shall, as now provided by statute and case law, be authorized and shall have the right, in the performance of his duties, to enter any premises during normal business hours and in emergencies whenever necessary to protect the public interest.
- C. Owners, agents, operators and occupants shall be responsible for providing access to all parts of the premises within their control to authorized inspectors acting in the performance of their duties.

§ 67-18. Fees.⁵

- A. Any duly appointed inspector which is hereby authorized by the Town of Palermo to make inspections and reinspections of all buildings and structures under construction, subject to the provisions of the New York State Uniform Fire Prevention and Building Code, and to approve and disapprove the same will do so at no cost or expense of such inspections or reinspections against the Town of Palermo.
- B. A copy of the fee schedule will be kept on file with the Town Clerk and a copy will be part of the application packet.
- C. When applicable, the cost for the P.E. approval will be assumed by the applicant.
- D. In the event that an application for a building permit is not approved, the applicant shall be entitled to a refund of 50% of the fee paid, provided that no work has commenced. If work has been started and the application is not approved, the fees paid shall not be refunded.
- E. The cost estimate for all existing buildings or structures subject to periodic fire prevention inspections will be

5. **Editor's Note: The fees are to be as set from time to time by resolution of the Town Board. The current schedule of fees is on file in the Town Clerk's office.**

reviewed with the local board of the Town of Palermo on an annual basis.

- F. Payment schedule for the fees addressed above can be remitted quarterly, semiannually or annually as agreed upon.

§ 67-19. Stop orders. [Amended 8-11-1994 by L.L. No. 1-1994]

Whenever the enforcement official has reasonable grounds to believe that the work on any building or structure is being prosecuted in violation of the provision of the applicable building laws, ordinances, rules or regulations, or not in conformity with the provisions of an application, or in an unsafe and dangerous manner, he shall notify the owner of the property or the owner's agent to suspend all work and suspend all building activities until the stop order has been rescinded. Such order and notice shall appear in writing, shall state the conditions under which the work may be resumed and may be served upon a person to whom it is directed either by delivering it personally to him or by posting the same upon a conspicuous portion of the building where the work is being performed and sending a copy of the same to him by certified mail at the address set forth in the application for the permission for the construction of such building.

§ 67-20. Certificates of occupancy.

- A. No building hereafter erected shall be used or occupied in whole or in part until a certificate of occupancy shall have been issued by the official inspection agency.
- B. No building hereafter enlarged, extended or altered or upon which work has been performed which required the issuance of a building permit shall be occupied or used for more than 30 days after the completion of the alteration or work unless a certificate of occupancy shall have been issued.

- C. No change shall be made in the occupancy of an existing building unless a certificate of occupancy authorizing such change shall have been issued.
- D. The owner or his agent shall make application for a certificate of occupancy. Accompanying this application and before the issuance of a certificate of occupancy, there shall be filed with the municipality an affidavit of the registered architect or licensed professional engineer who supervised the construction of the work, or of the superintendent of construction who supervised the construction and who, by reason of his experience, is qualified to superintend the work for which the certificate of occupancy is sought. This affidavit shall state that the deponent has examined the approved plans of the structure for which a certificate of occupancy is sought, that the structure has been erected in accordance with approved plans and, as erected, complies with the law governing building construction or as a variance which has been legally authorized. Such variances and qualifying conditions imposed therewith, if any, shall be specified in the affidavit.
- E. When, after final inspection, it is found that the proposed work has been completed in accordance with the applicable laws, ordinances, rules or regulations, and also in accordance with the application, the official inspection agency shall issue a certificate of occupancy upon forms provided by it. If it is found that the proposed work has not been properly completed, the official inspection agency shall not issue a certificate of occupancy and shall order the work completed in conforming to the building permit and in conformity with the applicable building regulations.
- F. A certificate of occupancy shall be issued, where appropriate, within 30 days after written application therefore is made.
- G. The certificate of occupancy shall certify that the work has been completed and that the proposed use and occupancy is in conformity with the provisions of the applicable laws,

ordinances, rules and regulations and shall specify the use or uses and the extent therefor to which the building or structure or its several parts may be put to use.

- H. Upon request, the official inspection agency may issue a temporary certificate of occupancy for a building or structure or part thereof before the entire work covered by the building permit shall have been completed, provided that such portions which have been completed may be occupied safely without endangering life or the public health and welfare. A temporary certificate of occupancy shall remain effective for a period not exceeding three months from its date of issuance. For good causes, the official inspection agency may allow a maximum of two extensions for periods not exceeding three months each.

§ 67-21. Department records and reports. [Added 8-11-1994 by L.L. No. 1-1994]

- A. The enforcement officials shall keep permanent official records of all transactions and activities conducted by them, including applications received, plans approved, permits and certificates issued, fees charged and collected, inspection reports, all rules and regulations promulgated by the municipality and notices and orders issued.
- B. The enforcement official shall submit to the Town of Palermo a written report of all business conducted.

§ 67-22. State Regional Board of Review.

- A. A State Regional Board of Review has been established by the state for the purpose of granting variances where enforcement of any provision or requirement of the New York State Uniform Fire Prevention and Building Code results in practical difficulties or unnecessary hardships. Any such variation shall be consistent with the spirit of the Code and shall not be inconsistent with § 381,

Subdivision 2, of the Executive Law. [Amended 8-11-1994 by L.L. No. 1-1994]

- B. The Board of Review is composed of five members, one of whom is a registered architect licensed to practice in this state, one of whom is a professional engineer licensed to practice in this state, one of whom has a background in building code enforcement, one of whom has a background in fire prevention and one of whom is a businessman or a lawyer. One of the five members, in addition, is a local government official.
- C. Each member of the Board of Review has been appointed by the Secretary of State and shall serve a term of three years.
- D. The Board of Review shall have the power:
 - (1) To vary or modify, in whole or in part, any provision or requirement of the Uniform Code in cases where strict compliance with such provision or requirement would entail practical difficulties or unnecessary hardship or would otherwise be unwarranted; provided, however, that any such variance or modification will not substantially adversely affect provisions for health, safety and security and that equally safe and proper alternatives are prescribed; and
 - (2) To hear and decide appeals from and review any order or determination or the failure within a reasonable time to make any such order or determination by an administration official charged with the enforcement of or purporting to enforce the Uniform Code.
- E. The Town of Palermo and the official inspection agency shall obtain a copy of the Board of Review's decision for its record.

ARTICLE III
Residential Lots of Record
[Adopted 7-31-2001 by L.L. No. 3-2001]

§ 67-23. Title.

This article shall be known as the "Local Law Establishing Residential Lots of Record in the Town of Palermo, County of Oswego, State of New York."

§ 67-24. Purpose.

The purpose of this article is to establish residential lots of record in order to provide an expedient and efficient manner in which lot owners may obtain building permits for residential buildings on lots established prior to the enactment of § 67-3C and D of the Code of the Town of Palermo.

§ 67-25. Authority.

This article is enacted pursuant to the Town's authority under the Municipal Home Rule Law and Town Law § 130 of the State of New York.

§ 67-26. Construction on lots of record.

A one-family dwelling may be built upon any lot regardless of whether such lot conforms with the road frontage, depth or yard requirements required by § 67-3 of the Code of the Town of Palermo under the following conditions:

- A. Such lot shall have been held in separate ownership from adjoining land at the time of the adoption of the Palermo Town Code.⁶

6. Editor's Note: The Palermo Town Code was adopted 8-11-1994 by L.L. No. 1-1994.

- B. Such lot shall be sufficiently large to support individual water supply and sewage disposal systems, based upon the State Board of Health standards; or such lot shall have access to public water or sewer facilities.
- C. There shall be only one residential building on a lot.
- D. Such lot must be sufficiently compatible with existing development on adjacent lots.

§ 67-27. Procedure.

- A. The Code Enforcement Officer for the Town of Palermo shall have the authority to impose conditions upon lots of record. A building permit shall not be issued until the Code Enforcement Officer's decision has been reviewed and approved by the Planning Board at its next regularly scheduled meeting.
- B. Copies of conditions and Planning Board approval shall be filed with the Town Clerk within 10 days of approval by the Planning Board.

Chapter 70

FLOOD DAMAGE PREVENTION

ARTICLE I

Statutory Authorization and Purpose

- § 70-1. Findings.**
- § 70-2. Purpose.**
- § 70-3. Objectives.**

ARTICLE II

Definitions

- § 70-4. Terms defined.**

ARTICLE III

General Provisions

- § 70-5. Applicability.**
- § 70-6. Basis for establishing areas of special flood hazard.**
- § 70-7. Interpretation and conflict with other laws.**
- § 70-8. Penalties for offenses.**
- § 70-9. Warning and disclaimer of liability.**

ARTICLE IV

Administration

- § 70-10. Designation of local administrator.**
- § 70-11. Floodplain development permit.**
- § 70-12. Application.**

PALERMO CODE

- § 70-13. **Duties and responsibilities of local administrator.**

ARTICLE V
Construction Standards

- § 70-14. **General standards.**
§ 70-15. **Standards for all structures.**
§ 70-16. **Elevation of residential structures.**
§ 70-17. **Nonresidential structures.**
§ 70-18. **Manufactured homes and recreational vehicles.**

ARTICLE VI
Variance Procedure

- § 70-19. **Appeals Board.**
§ 70-20. **Conditions for variances.**

[HISTORY: Adopted by the Town Board of the Town of Palermo 11-23-1999 by L.L. No. 5-1999. Amendments noted where applicable.]

GENERAL REFERENCES

Board of Appeals — See Ch. 7.
Code Enforcement Officer — See Ch. 12.
Fire prevention and building construction — See Ch. 67.
Manufactured home parks — See Ch. 91.
Site plan review — See Ch. 114.
Subdivision of land — See Ch. 125.

ARTICLE I

Statutory Authorization and Purpose

§ 70-1. Findings.

The Town Board of the Town of Palermo finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Palermo and that such damages may include destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this chapter is adopted.

§ 70-2. Purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
- D. Control filling, grading, dredging and other development which may increase erosion or flood damages;
- E. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and

- F. Qualify for and maintain participation in the National Flood Insurance Program.

§ 70-3. Objectives.

The objectives of this chapter are to:

- A. **Protect human life and health;**
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. Provide that developers are notified that property is in an area of special flood hazard; and
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

ARTICLE II
Definitions

§ 70-4. Terms defined.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

APPEAL — A request for a review of the local administrator's interpretation of any provision of this chapter or a request for a variance.

AREA OF SHALLOW FLOODING — A designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one-percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the "base floodplain" or "100-year floodplain."

BASE FLOOD — The flood having a one-percent chance of being equalled or exceeded in any given year.

BASEMENT — That portion of a building having its floor subgrade (below ground level) on all sides.

BUILDING — See "structure."

CELLAR — Has the same meaning as "basement."

CRAWL SPACE — An enclosed area beneath the lowest elevated floor, 18 inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving,

excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING —

A. A nonbasement building:

- (1) Built, in the case of a building in Zone A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zone V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water; and
- (2) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood.

B. In the case of Zone A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of Zone V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by the community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK or SUBDIVISION — The preparation of additional sites

by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEDERAL EMERGENCY MANAGEMENT AGENCY — The federal agency that administers the National Flood Insurance Program.

FLOOD or FLOODING —

- A. A general and temporary condition of partial or complete inundation of normally dry land areas from:
- (1) The overflow of inland or tidal waters;
 - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- B. "Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection A(1) above.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM) — An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

FLOOD ELEVATION STUDY — An examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

FLOOD HAZARD BOUNDARY MAP (FHBM) — An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

FLOOD INSURANCE RATE MAP (FIRM) — An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY — See "flood elevation study."

FLOODPLAIN or FLOOD-PRONE AREA — Any land area susceptible to being inundated by water from any source (see definition of "flooding").

FLOODPROOFING — Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduces or eliminates flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY — Has the same meaning as "regulatory floodway."

FUNCTIONALLY DEPENDENT USE — A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

HISTORIC STRUCTURE — Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the

Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior; or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

LOCAL ADMINISTRATOR — The person appointed by the community to administer and implement this chapter by granting or denying development permits in accordance with its provisions. This person is often the Code Enforcement Officer, Building Inspector or employee of an engineering department.

LOWEST FLOOR — The lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

MANUFACTURED HOME — A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation

when connected to the required utilities. The term does not include a recreational vehicle.

MANUFACTURED HOME PARK OR SUBDIVISION — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL — For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

MOBILE HOME — Has the same meaning as "manufactured home."

NATIONAL GEODETIC VERTICAL DATUM (NGVD) — As corrected in 1929, is a vertical control used as a reference for establishing varying elevations within the floodplain.

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

NEW MANUFACTURED HOME PARK OR SUBDIVISION — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

ONE-HUNDRED-YEAR FLOOD or 100-YEAR FLOOD — Has the same meaning as "base flood."

PRINCIPALLY ABOVE GROUND — At least 51% of the actual cash value of the structure, excluding land value, is above ground.

RECREATIONAL VEHICLE — A vehicle which is:

- A. Built on a single chassis;
- B. Four hundred square feet or less when measured at the largest horizontal projections;
- C. Designed to be self-propelled or permanently towable by a light-duty truck; and
- D. Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 70-13B of this chapter.

START OF CONSTRUCTION — Includes substantial improvement and means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

STRUCTURE — A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. The term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- B. Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

VARIANCE — A grant of relief from the requirements of this chapter which permits construction or use in a manner that would otherwise be prohibited by this chapter.

ARTICLE III General Provisions

§ 70-5. Applicability.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Palermo, Oswego County, N.Y.

§ 70-6. Basis for establishing areas of special flood hazard.

- A. The areas of special flood hazard are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- (1) Flood Insurance Rate Map (multiple panels) Index No. 361263 0001-00012, the effective date of which is March 1, 1988.
- B. The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and/or maps are on file at the Town of Palermo Town Clerk's office.

§ 70-7. Interpretation and conflict with other laws.

- A. This chapter includes all revisions to the National Flood Insurance Program through November 1, 1989, and shall supersede all previous laws adopted for the purpose of flood damage prevention.
- B. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

§ 70-8. Penalties for offenses.

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$250 or imprisoned for not more than 15 days, or both. Each day of noncompliance shall be considered a separate

offense. Nothing herein contained shall prevent the Town Board for the Town of Palermo from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under Article VI will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

§ 70-9. Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Town Board of the Town of Palermo, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

ARTICLE IV
Administration

§ 70-10. Designation of local administrator.

The Town of Palermo Code Enforcement Officer is hereby appointed local administrator to administer and implement this chapter by granting or denying floodplain development permits in accordance with its provisions.

§ 70-11. Floodplain development permit.

A. Purpose. A floodplain development permit is hereby established for all construction and other development to

be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in § 70-6, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the local administrator and may include, but not be limited to, plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

- B. Fees. All applications for a floodplain development permit shall be accompanied by an application fee as set forth from time to time by resolution of the Town Board.¹ In addition, the applicant shall be responsible for reimbursing the Town of Palermo for any additional costs necessary for review, inspection and approval of this project. The local administrator may require a deposit of no more than \$500 to cover these additional costs.

§ 70-12. Application.

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- A. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zone A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the local administrator the

1. **Editor's Note: The current fee schedule is on file in the Town Clerk's office.**

- as-built elevation, certified by a licensed professional engineer or surveyor.
- B. The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the local administrator the as-built floodproofed elevation, certified by professional engineer or surveyor.
 - C. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in § 70-15C, Utilities.
 - D. A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in § 70-17, Nonresidential structures.
 - E. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in § 70-6, when notified by the local administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
 - F. A technical analysis, by a licensed professional engineer, if required by the local administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.

- G. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or five acres.

§ 70-13. Duties and responsibilities of local administrator.

Duties of the local administrator shall include, but not be limited the following:

- A. Permit application review. The local administrator shall conduct the following permit application review before issuing a floodplain development permit:
- (1) Review all applications for completeness, particularly with the requirements of § 70-12, Application, and for compliance with the provisions and standards of this chapter.
 - (2) Review subdivision and other proposed new development, including manufactured home parks, to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Article V, Construction Standards, and, in particular, § 70-14A, Subdivision proposals.
 - (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The local administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination. If the proposed

development may result in physical damage to any other property or fails to meet the requirements of Article V, Construction Standards, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and resubmit the application.

- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by state or federal law.

B. Use of other flood data.

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 70-12G, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.
- (2) When base flood elevation data are not available, the local administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this chapter.

C. Alteration of watercourses.

- (1) Notification shall be given to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and evidence of such notification shall be submitted to

the Regional Director, Region II, Federal Emergency Management Agency.

- (2) The local administrator shall determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

D. Construction stage.

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level, shall be obtained from the permit holder. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

E. Inspections. The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the

floodplain development permit and/or any variance provisions.

F. Stop-work orders.

- (1) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 70-8 of this chapter.
- (2) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 70-8 of this chapter.

G. Certificate of compliance.

- (1) In areas of special flood hazard, as determined by documents enumerated in § 70-6, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.
- (2) A certificate of compliance shall be issued by the local administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Subsection E, Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring

requirements or encroachment analyses which may have been required as a condition of the approved permit.

- H. Information to be retained. The local administrator shall retain, and make available for inspection, copies of the following:
- (1) Floodplain development permits and certificates of compliance;
 - (2) Certifications of as-built lowest floor elevations of structures, required pursuant to Subsections D(1) and (2), and whether or not the structures contain a basement;
 - (3) Floodproofing certificates required pursuant to Subsection D(1), and whether or not the structures contain a basement;
 - (4) Variances issued pursuant to Article VI, Variance Procedures; and
 - (5) Notices required under Subsection C, Alteration of watercourses.

ARTICLE V Construction Standards

§ 70-14. General standards.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 70-6:

- A. Subdivision proposals. The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

B. Encroachments.

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location; or
 - (b) The Town of Palermo agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Palermo for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Palermo for all costs related to the final map revision.
- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in § 70-6, no new construction, substantial improvements or other

development in the floodway (including fill) shall be permitted unless:

- (a) A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood; or
- (b) The Town of Palermo agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Palermo for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Palermo for all costs related to the final map revisions.

§ 70-15. Standards for all structures.

- A. Anchoring. New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- B. Construction materials and methods.
 - (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
 - (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.

- (3) For enclosed areas below the lowest floor of a structure within Zone A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
- (a) Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
- [1] A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - [2] The bottom of all such openings no higher than one foot above the lowest adjacent finished grade.
- (b) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.

C. Utilities.

- (1) Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating, and air-conditioning equipment, hot water heaters,

appliances, elevator lift machinery, and electrical junction and circuit breaker boxes. When located below the base flood elevation, a professional engineer's or architect's certification of the design is required.

- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall.
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

§ 70-16. Elevation of residential structures.

The following standards, in addition to the standards in § 70-14A, Subdivision proposals, and § 70-14B, Encroachments, and § 70-15, Standards for all structures, apply to structures located in areas of special flood hazard as indicated:

- A. Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above the base flood level.
- B. Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.

- C. Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in § 70-6 (at least two feet if no depth number is specified).
- D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

§ 70-17. Nonresidential structures.

The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures, in addition to the requirements in § 70-14A, Subdivision proposals, and § 70-14B, Encroachments, and § 70-15, Standards for all structures:

- A. Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall either:
 - (1) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or
 - (2) Be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- B. Within Zone AO, new construction and substantial improvements of nonresidential structures shall:
 - (1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the

community's FIRM (at least two feet if no depth number is specified); or

- (2) Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in Subsection A(2).

If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A floodproofing certificate or other certification shall be provided to the local administrator that certifies that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Subsection A(2), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.

- D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.
- E. Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

§ 70-18. Manufactured homes and recreational vehicles.

The following standards in addition to the standards in § 70-14,, General standards, and § 70-15, Standards for all structures, apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard:

- A. Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either be on site fewer than 180 consecutive days, be fully licensed and ready for highway use, or meet the requirements for manufactured homes in

Subsections B, D and E. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices and has no permanently attached additions.

- B. A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH that is on a site either outside of an existing manufactured home park or subdivision as herein defined; in a new manufactured home park or subdivision as herein defined; in an expansion to an existing manufactured home park or subdivision as herein defined; or in an existing manufactured home park or subdivision as herein defined on which a manufactured home has incurred substantial damage as the result of a flood shall be elevated on a permanent foundation such that the lowest floor is elevated to or above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- C. A manufactured home to be placed or substantially improved in Zones A1-A30, AE and AH in an existing manufactured home park or subdivision that is not to be placed on a site on which a manufactured home has incurred substantial damage shall be:
- (1) Elevated in a manner such as required in Subsection B;
 - (2) Elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist

flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.

- D. Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- E. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in § 70-6 (at least two feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

ARTICLE VI Variance Procedure

§ 70-19. Appeals Board.

- A. The Town of Palermo Board of Appeals shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The Town of Palermo Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the local administrator in the enforcement or administration of this chapter.
- C. Those aggrieved by the decision of the Town of Palermo Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

D. In passing upon such applications, the Town of Palermo Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) The costs to local governments and the dangers associated with conducting search-and-rescue operations during periods of flooding;
- (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the

effects of wave action, if applicable, expected at the site; and

- (12) The costs of providing governmental services during and after flood conditions, including search-and-rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- E. Upon consideration of the factors of Subsection D and the purposes of this chapter, the Town of Palermo Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- F. The local administrator shall maintain the records of all appeal actions including technical information, and report any variances to the Federal Emergency Management Agency upon request.

§ 70-20. Conditions for variances.

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing Subsections D(1) through (12) in § 70-19 have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
- (1) The proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure.
 - (2) The variance is the minimum necessary to preserve the historic character and design of the structure.

- C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
- (1) The criteria of Subsections A, D, E and F of this section are met;
 - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variances shall only be issued upon receiving written justification of:
- (1) A showing of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- G. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall

be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Chapter 73

GAMES OF CHANCE

- § 73-1. **Definitions.**
- § 73-2. **Games of chance authorized.**
- § 73-3. **Restrictions.**
- § 73-4. **Sunday games.**
- § 73-5. **Penalties for offenses.**
- § 73-6. **Effective date.**

[HISTORY: Adopted by the Town Board of the Town of Palermo 8-28-1978. Amendments noted where applicable.]

GENERAL REFERENCES

Bingo — See Ch. 54.

§ 73-1. **Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

AUTHORIZED ORGANIZATION — An authorized organization as defined in Subdivision 4 of § 186 of the General Municipal Law.

GAMES OF CHANCE — A game of chance as defined in Subdivision 3 of § 186 of the General Municipal Law.

§ 73-2. Games of chance authorized.

Authorized organizations may, upon the obtaining of a license from the Town Clerk, conduct games of chance within the town as provided in Article 9-A of the General Municipal Law, as the same may be amended from time to time, and as provided further in this chapter. Such games of chance shall be conducted in accordance with the general state law and with the rules and regulations of the New York State Racing and Wagering Board and this chapter as the same may be amended from time to time.

§ 73-3. Restrictions.

The conduct of games of chance authorized by this chapter shall be subject to those restrictions contained in § 189 of the General Municipal Law and in other applicable statutory and case law and the rules and regulations of the New York State Racing and Wagering Board.

§ 73-4. Sunday games.

Games of chance on the first day of the week, commonly known as "Sunday," may be conducted pursuant to this chapter and appropriate statutes and regulations.

§ 73-5. Penalties for offenses.

Any person, association, corporation or organization who or which shall make any false statement in any application for any license authorized to be issued for the conduct of games of chance in the town or in any statement annexed thereto or who or which shall violate any of the provisions and restrictions contained in Article 9-A of the General Municipal Law and this chapter shall be guilty of a misdemeanor and shall forfeit any license issued to it under this Article authorizing the conduct of games of chance in the town and shall be ineligible to apply for another license for at least one (1) year hereafter.

§ 73-6. Effective date.

This chapter shall become effective upon approval of the same by a majority of the qualified electors of this town, voting on a proposition therefor, duly submitted at a general or special election¹ held within the town as provided by law and its publication in accordance with § 133 of the Town Law.

1. Editor's Note: These provisions passed at permissive referendum at the general election held November 7, 1978.

Chapter 79

HIGHWAY SPECIFICATIONS

ARTICLE I Title

§ 79-1. Title.

ARTICLE II General Provisions

§ 79-2. Town Superintendent of Highways.

§ 79-3. Approval of contents.

§ 79-4. Notification and commencement.

§ 79-5. Materials and workmanship.

§ 79-6. Inspections.

§ 79-7. Drawings; requirements.

§ 79-8. Conditions for acceptance.

ARTICLE III Construction Requirements

§ 79-9. Drainage.

§ 79-10. Access to existing properties.

§ 79-11. Permits for work within town highways.

ARTICLE IV Materials and Details

§ 79-12. Rough grading of roads; soil removal; excavation; testing.

PALERMO CODE

- § 79-13. **Subgrade.**
- § 79-14. **Culverts, subsurface drainage and underground utilities.**
- § 79-15. **Subbase and surface courses.**
- § 79-16. **Triple surface treatment for minor streets.**
- § 79-17. **Bituminous pavements for major streets.**

ARTICLE V

Typical Street Sections and Standards

- § 79-18. **Street classifications.**
- § 79-19. **Design standards.**

ARTICLE VI

Drainage Standards

- § 79-20. **Off-site drainage criteria.**
- § 79-21. **Design of storm sewers.**
- § 79-22. **Design of culverts.**
- § 79-23. **Design of open channels.**
- § 79-24. **Drainage report.**
- § 79-25. **Storm sewer and culvert pipe.**
- § 79-26. **Drainage structures.**

ARTICLE VII

Signs

- § 79-27. **Street name and traffic signs.**

ARTICLE VIII

Applicability; Enforcement; Penalties

§ 79-28. **Applicability.**

§ 79-29. **Compliance required.**

§ 79-30. **Penalties for offenses.**

Appendix A

Figure 1, Minor Street

Figure 2, Major Street

Figure 3, Standard Cul-de-sac Detail

**Figure 4, Standard Tee Turnaround
(Dead-end) Detail**

[HISTORY: Adopted by the Town Board of the Town of Palermo 2-27-1990 by L.L. No. 1-1990. Amendments noted where applicable.]

GENERAL REFERENCES

Notification of defects — See Ch. 96.

Site plan review — See Ch. 114.

Subdivision of land — See Ch. 125.

ARTICLE I

Title

§ 79-1. **Title.**

This chapter shall be known as the "Highway Construction Specifications of the Town of Palermo, New York."

PALERMO CODE

ARTICLE II General Provisions

§ 79-2. Town Superintendent of Highways. [Amended 8-11-1994 by L.L. No. 1-1994]

The Town Superintendent of Highways shall have approval authority over highway construction plans and acceptance of roads as further defined herein. The Town Superintendent of Highways may designate a representative, including the Town Engineer, to conduct in his place any or all required reviews, inspections and approvals provided for in this chapter. All references to the Town Superintendent of Highways, therefore, shall be deemed to include a Town Engineer or the Superintendent's designated representative.

§ 79-3. Approval of contents. [Amended 8-11-1994 by L.L. No. 1-1994]

Two copies of construction plans shall be submitted for approval by the Town Planning Board and the Town Superintendent of Highways. The plans shall include a site plan, street layout, site grading, street center line alignment, location, profile, drainage, layout and details and roadway typical sections. The plans shall have been prepared in accordance with the current Subdivision Regulations,¹ and the construction specifications by a registered professional engineer or licensed land surveyor. No road construction shall commence until plans have been approved by both the Planning Board and the Town Superintendent of Highways. Nothing herein shall supersede the requirements of the Town of Palermo Subdivision Regulations and/or ordinances.

1. Editor's Note: See Ch. 125, Subdivision of Land.

§ 79-4. Notification and commencement. [Amended 8-11-1994 by L.L. No. 1-1994]

The contractor shall notify the Town Superintendent of Highways at least 10 days prior to the start of any clearing, site grading, drainage work and roadway construction. No part of the surface course shall be constructed until all utilities have been installed and until the subbase has been approved by the Town Superintendent of Highways.

§ 79-5. Materials and workmanship. [Amended 8-11-1994 by L.L. No. 1-1994]

All construction materials and workmanship shall be as shown on the approved plans/specifications, and all materials shall be obtained from sources approved, in writing, by the Town Superintendent of Highways prior to construction or incorporation in the work.

§ 79-6. Inspections. [Amended 8-11-1994 by L.L. No. 1-1994]

- A. The Town Superintendent of Highways will periodically inspect the work during its progression. The contractor shall be responsible for the survey and stakeout of all streets and facilities and for furnishing and installing all materials and facilities in accordance with the plans and specifications.
- B. The Town Superintendent of Highways shall maintain the right to reject any and all materials not meeting specifications which the contractor desires to incorporate into the work.
- C. The contractor shall notify the Town Superintendent of Highways prior to placing subbase material, prior to placing the surface course and prior to applying the surface treatment. No material shall be placed until prior work has been inspected and approved by the Town Superintendent of Highways.

- D. An inspection by the Town Superintendent of Highways will be made upon substantial completion of all work. A checklist of items requiring further work will be prepared and submitted to the contractor. Upon completion of the work required by the checklist, a final inspection will be made for the purpose of ascertaining that all work has been completed.
- E. All inspections by the town will be made on a timely basis.

§ 79-7. Drawings; requirements. [Amended 8-11-1994 by L.L. No. 1-1994]

Upon completion of the work, the contractor's surveyor shall prepare and submit one set of as-built Mylars and one paper copy to the Town Superintendent of Highways and one paper copy to the Town Clerk. The as-built drawing shall show the as-constructed roadway center line elevations, drainage pipe inverts, catch basin inverts and top of grate elevations, underdrain locations and outlet inverts and all field modifications made to the approved plans, including alignment, profiles, pavement, drainage and roadway typical sections.

§ 79-8. Conditions for acceptance.

In addition to the requirements as set forth in Chapter 125, Subdivision of Land, of the Code of the Town of Palermo for the acceptance of subdivision improvements, the following conditions shall also apply for acceptance of streets and roads:

- A. The prospective dedicator shall tender to the Town Attorney the originals of all deeds and easements, along with any necessary subordination or other agreements so as to convey an unencumbered interest in the proposed streets and right-of-way areas to the Town of Palermo, properly signed and acknowledged in recordable form; a signed real property transfer gains tax affidavit (Form TP-584 or acceptable substitute); and a print of the filed subdivision map. The dedicator shall also provide, at the

dedicator's expense, either a policy of title insurance naming the Town of Palermo or an attorney's certificate of title certified to the Town of Palermo covering the property interests conveyed, current to the date of recording of the deed and/or easement. The dedicator shall pay all recording fees.

- B. The prospective dedicator shall provide a maintenance bond for the value of the completed street construction in the amount fixed by resolution of the Town Board. This bond shall be conditioned for the faithful performance by the dedicator of any repairs needed to correct or replace any and all damage to said street from the time of acceptance by the Town Board to the time of completion of the last building lot or aid street, but not less than one year nor longer than three years.

For those streets which are partially completed and for which a performance bond is furnished to assure completion as required in Chapter 125, Subdivision of Land, of the Code of the Town of Palermo, a maintenance bond shall also be furnished for the value of the completed portion of said street in the amount as fixed by resolution of the Town Board and with the same time period requirements as in § 78-8B above.

ARTICLE III Construction Requirements

§ 79-9. Drainage.

All grading and construction activities shall be conducted in a manner to ensure satisfactory drainage of surface water at all times. All existing culverts and drainage systems shall be maintained in satisfactory operating condition throughout the course of the work. If it is necessary to interrupt existing surface drainage, sewers or underdrainage, then temporary drainage facilities shall be provided until the permanent drainage facilities are complete and properly functioning.

§ 79-10. Access to existing properties.

Where new construction is being performed in areas of existing houses, continuous access to and into driveways shall be provided, and the travel way shall be adequately signed and barricaded to protect the traveling public.

§ 79-11. Permits for work within town highways.

- A. No work requiring excavation, filling, cutting of pavement, drainage improvements or the installation or maintenance of pipelines or utilities will be permitted within the right-of-way of any town highway without the prior written consent of the Town Superintendent of Highways through the issuance of a permit. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- B. Individuals, corporations or municipal entities seeking such permit approval shall make application in triplicate upon such form as prescribed by the town. The application shall include plans detailing the proposed work. A performance bond may be required for the satisfactory completion of the proposed work, and if so, in an amount as determined by the Town Board.

ARTICLE IV
Materials and Details

§ 79-12. Rough grading of roads; soil removal; excavation; testing.

- A. All soil, rock and other material shall be removed and utilized or disposed of as required by the plans and specifications. All excavation and embankment work shall be executed to the work and limit lines as shown on the plans.
- B. All excavation and embankment work shall be in accordance with § 20 of the New York State Department of Transportation Standard Specifications or as directed by

the Town Superintendent of Highways. Embankment material shall be natural soil free from excessive moisture, frost, stumps, trees, roots, sod, muck, marl vegetable matter or other unsuitable materials. Embankment material shall be obtained from borrow pits approved by the Town Superintendent of Highways and shall be well graded from fine to coarse with a minimum content of silt. **[Amended 8-11-1994 by L.L. No. 1-1994]**

- C. Where embankments are to be placed underwater, only acceptable granular material shall be used. All materials shall be suitable for compaction in layers not exceeding eight inches in thickness and shall remain stable when wet.
- D. Prior to the commencement of excavation or fill, stripping shall be conducted to remove all topsoil, roots, organic matter, rubbish or other debris for the full width of the road property. Usable topsoil from stripping shall be stockpiled for future use in piles at approved locations outside the limits of the road property.
- E. If there is not sufficient excavated material of a suitable quality at the site to complete the embankment, subgrades and backfilling to the required lines and grade, the contractor shall borrow the necessary additional materials. The source and acceptability of the borrow material shall be subject to the approval of the Town Superintendent of Highways at all times. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- F. The contractor shall request the Town Superintendent of Highways' approval of proposed borrow areas at least five days before taking any material from such areas. All test pits, explorations and laboratory tests required by the Town Superintendent of Highways to evaluate the acceptability of borrow shall be done by the contractor at his own expense. **[Amended 8-11-1994 by L.L. No. 1-1994]**

- G. In general, embankment materials shall be placed in horizontal layers not exceeding eight inches in thickness, measured after compaction, and shall be thoroughly compacted. Stones, if any, shall not exceed six inches in greatest dimension and shall be well distributed through the mass.
- H. Each layer of embankment material shall be thoroughly tamped or rolled to the required degree of compaction by sheepsfoot or pneumatic rollers, mechanical tamper or vibrators. Successive layers shall not be placed until the layer under construction has been thoroughly compacted.
- I. Truck or other heavy equipment shall not be operated over pipelines until a minimum of 36 inches of backfill above the crown of the pipe has been placed and properly compacted.
- J. Embankments shall have a minimum dry density of 95% of the maximum dry weight density in pounds per cubic foot as determined by the Standard Proctor compaction test.
- K. All laboratory tests required by the Town Superintendent of Highways shall be done by an approved testing laboratory at the contractor's expense. Field density testing with a nuclear density meter shall be performed as directed by the Town Superintendent of Highways. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- L. When the test results indicate that insufficient compaction has been obtained in any layer, the contractor shall take such action as the Town Superintendent of Highways may direct to modify or alter the moisture content of the soil, to provide additional compaction or otherwise to increase the in-place soil density. **[Amended 8-11-1994 by L.L. No. 1-1994]**

§ 79-13. Subgrade. [Amended 8-11-1994 by L.L. No. 1-1994]

Prior to placement of the gravel subbase course, the roadway subgrade and the ditch, backslopes shall be brought to the true grade as indicated in the roadway cross section. After shaping, the roadway subgrade shall be proof-rolled with a smooth steel-wheeled roller weighing not less than 10 tons. Any depression shall be filled with suitable gravel materials. Any soft or unsuitable material shall be removed and replaced as directed by the Town Superintendent of Highways. The subgrade shall then be reshaped and rerolled until there is no movement under the roller. If required by the Town Superintendent of Highways, a filter fabric material, Mirafi 500X or approved equal, shall be placed upon the prepared subgrade surface to the width of the proposed pavement limits including shoulders prior to a placement of the gravel subbase.

§ 79-14. Culverts, subsurface drainage and underground utilities.

All underground utilities, culverts and storm sewers, including, where appropriate, underground service connections to the property lines of adjoining properties or each subdivision lot, and excepting driveway pipes, shall be installed prior to placing the base course. All culverts crossing the center line of the roadway shall be of a size 18 inches in diameter or larger as may be required. All driveway pipes shall have a minimum diameter of 12 inches. See also the requirements of Article VI.

§ 79-15. Subbase and surface courses.

- A. Subbase type. A subbase course and surface course of the types specified shall be furnished, placed and compacted and fine graded in conformity with the liens, grades and thickness as shown in the town standard roadway sections or as indicated in the approved plans. The type, source, gradation and soundness of the subbase material and surface course material shall be approved by the Town

Superintendent of Highways prior to placement of each material. **[Amended 8-11-1994 by L.L. No. 1-1994]**

- B. Placing and compaction. Prior to placing the subbase course, the finished subgrade surface shall not extend above the design elevation at any location. Subbase material shall be spread on the grade by a procedure that minimizes particle segregation. Compaction of any subbase course lift shall not lag spreading operations by more than 500 linear feet. The depth of loose spread lifts shall not exceed those permitted by the type and classification of compactor utilized. The minimum loose lift thickness of subbase materials shall be 1.5 times the maximum particle size of the material being placed. Surface course material shall be spread and compacted only after approval of the subbase course by the Town Superintendent of Highways. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- C. Traffic and contamination. No highway or construction equipment traffic shall be permitted over the final finished subbase course surface except as necessary for the construction of the overlying course at that locations or as allowed by the Town Superintendent of Highways. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- D. Correction. Contamination of either the subbase course or the surface course with any deleterious material, such as silt, clay, mud or organic material, through any cause whatsoever, shall be corrected by the contractor by excavation and replacement of the material in the affected areas.
- E. Fine grade tolerance. The final surface of the subbase course shall be fine graded so that, after final compaction and just prior to placement of the surface course, the surface elevation shall not vary more than 1/4 inch above or below the design line and grade at any location. The surface shall be completed to the above location to place an overlying course. If, after approval, the course becomes displaced or disturbed in any way for any reason, the contractor shall repair and regrade the damage to the

satisfaction of the Town Superintendent of Highways prior to placing the overlying course. [Amended 8-11-1994 by L.L. No. 1-1994]

§ 79-16. Triple surface treatment for minor streets.

A triple surface treatment shall be applied as shown on the town standard roadway sections and shall consist of the following successive layers of oil and stone.

- A. First course: bituminous material (Grade MC - 30 or approved equal) applied at the rate of 1/2 gallon per square yard. Allow time for penetration prior to application of aggregate. No. 1 aggregate (crushed limestone, washed) applied at the rate of 35 pounds per square yard. Compact first course with pneumatic rubber tire roller prior to placing second course. [Amended 8-11-1994 by L.L. No. 1-1994]
- B. Second course: bituminous material (Type 66 sealer or approved) applied at the rate of 1/2 gallon per square yard. No. 1A aggregate (crushed limestone, washed) applied at the rate of 35 pounds per square yard. Compact second course with pneumatic rubber tire roller prior to placing third course.
- C. Third course: Bituminous material (Type 66 B sealer or approved equal) applied at the rate of 1/2 gallon per square yard. No. 1 aggregate (crushed limestone, washed) applied immediately following bituminous material at the rate of 30 pounds per square yard. Compact third course with pneumatic rubber tire roller.

§ 79-17. Bituminous pavements for major streets.

- A. Asphaltic concrete base and surface courses of the type specified shall be furnished and placed in conformity with the lines, grades and thickness as shown on the town standard roadway section, or as indicated in the plans and

in accordance with § 400 of the New York State Department of Transportation Standard Specifications:

- (1) Asphalt concrete - Type 1 base.
- (2) Asphalt concrete - Type 3 binder.
- (3) Asphalt concrete - Type 6 top.

B. All asphalt concrete courses shall be placed only during the period of May 1 to October 15, unless otherwise approved by the Town Superintendent of Highways. The top course shall not be applied for a period of two years or until all houses have been built, whichever occurs first. **[Amended 8-11-1994 by L.L. No. 1-1994]**

**ARTICLE V
Typical Street Sections and Standards**

§ 79-18. Street classifications.

The attached typical sections shall be utilized in the following thresholds as listed:

Classifications	Development	Threshold
Minor street	Residential areas Agricultural areas	Fewer than 5 units
Major street*	Commercial/ industrial Residential Residential Residential/ agricultural	Any such development 5 or more units

*NOTE: When a proposed subdivision is an extension of a prior minor subdivision and the combined units exceed the threshold for a minor street, the street shall be a major street. This shall require bringing the prior minor street sections up to the standards for a major street.

§ 79-19. Design standards.

- A. In addition to the width requirements set forth in the typical sections, the following shall apply: **[Amended 8-11-1994 by L.L. No. 1-1994]**

Standard	Minor Street	Major Street
Minimum width of right-of-way	60 feet	66 feet
Minimum road width	32 feet	40 feet
Minimum pavement width	20 feet	24 feet
Minimum shoulder width	6 feet	8 feet
Minimum radius of horizontal curves	150 feet	400 feet
Minimum length of vertical curves	100 feet	200 feet
Minimum length of tangents between reverse curves	100 feet	200 feet
Maximum grade	10%	8%
Minimum grade	0.5%	0.5%
Minimum stopping site distance	250 feet	500 feet

- B. Culs-de-sac and tee turnarounds shall conform to the attached details (Figures 3 and 4, respectively).²

2. **Editor's Note: Figures 3 and 4 are included at the end of this chapter.**

ARTICLE VI
Drainage Standards

§ 79-20. Off-site drainage criteria.

- A. In general, the peak runoff flow rate of discharge from a proposed site after development shall not exceed the peak runoff flow rate that prevailed prior to development. If it can be demonstrated that downstream conditions are such that this requirement can be altered without jeopardizing downstream drainage patterns, alteration of the requirement will be made at the discretion of the Planning Board and Town Engineer. In general, this requirement may necessitate the design and construction of detention/retention facilities of various types. Such facilities may include rooftop storage, parking lot storage, subsurface seepage pits and/or detention/retention basins.
- B. A peak runoff flow rate entering the proposed site from an upper portion of the watershed(s) shall be incorporated into the stormwater management plan for the proposed site. However, it may assumed that this flow rate will not increase in the future as upper portions of the watershed are developed. If this assumption is not made and, therefore, added capacity within the drainage facilities of the proposed site is provided, then such capacity should be so stated in the drainage report.
- C. For purposes of calculating peak runoff flow rates for the design of drainage facilities, a twenty-five-year-storm frequency return period shall be used. Provisions of overflow of facilities shall be made for protection against loss of life and damage to personal property for storms having less frequent return periods of up to 100 years. Calculations shall be based on any of the recognized methods commonly used to calculate stormwater runoff.

§ 79-21. Design of storm sewers.

- A. Pipe sizing. Pipe shall be sized for peak flows resulting from a five-year storm without surcharging. The minimum pipe diameter for sewers shall be 12 inches. All pipes shall be designed for a three-feet-per-second minimum velocity when flowing full and an eight-feet-per-second maximum velocity when flowing full.
- B. Pipe placement. Vertical alignment shall provide for a minimum cover of 2 1/2 feet. When pipe sizes of different diameters enter a catch basin at a straight through grade condition, crown elevations of pipe shall be matched.
- C. Catch basin placement. The distance which water is allowed to run in open gutter flow along streets shall not exceed 400 feet. Catch basins shall generally be placed at all street intersections.

§ 79-22. Design of culverts.

- A. All culverts shall be designed to discharge a fifty-year peak flow utilizing available head at the entrance. Available head is that flood elevation which will not cause highway flooding or endangerment to life or personal property. Culvert design shall include an analysis of the inlet/outlet control conditions.
- B. Culvert design shall include provisions for slope stability for the roadway embankment section, as well as the selection of appropriate inlet and outlet end-section structures.

§ 79-23. Design of open channels.

- A. All open channels shall be designed to carry a twenty-five-year peak flow. Site conditions should be such that a one-hundred-year peak flow will not present serious endangerment to life or personal property.

- B. Based in the velocity at peak flow conditions, an appropriate lining of the channel bed and side slopes shall be employed to eliminate erosion. When channels discharge into existing streams, appropriate measures will be taken to minimize streambed erosion at the point of discharge.

§ 79-24. Drainage report.

If requested by the Town, the developer shall prepare and submit a complete report of all details necessary for the design of each drainage facility. Storm sewer calculations and design should be included in the design drainage report if such a system is required for the highway project. Culvert design worksheets provide a good format to be included in the design report.

§ 79-25. Storm sewer and culvert pipe.

- A. All storm sewer pipe shall be bituminous-coated smooth-flow corrugated steel pipe, reinforced concrete pipe, Class IV or approved equivalent. Minimum pipe thickness for corrugated steel pipe shall be 16 gauge for pipe diameters of 12 inches and 15 inches, 14 gauge for 18 inches through 24 inches, 12 gauge for 30 inches through 42 inches and 10 gauge for forty-eight-inch diameter.
- B. All pipe shall be laid true to line and grade and shall have a full, firm and even bearing. Pipe laying shall begin at the downgrade and progress in the upgrade direction.
- C. Connecting bands shall be placed with the clamping angles and bolts at the tops of the pipe. A gap greater than one inch shall not be permitted between ends of pipe at clamping points.
- D. The type of material to be used in bedding, filling and backfilling at structures, culverts, pipes, conduits and direct burial cable is subject to the approval of the Town

Superintendent of Highways. [Amended 8-11-1994 by L.L. No. 1-1994]

- E. Backfill at culverts and other structures shall be deposited in horizontal layers not exceeding eight inches in thickness prior to compaction. A minimum of 95% of standard proctor maximum density will be required.
- F. All end sections shall be prefabricated end sections, matching the material in the pipe. End sections shall be installed and anchored to prevent movement. Pipe outlets shall be protected against erosion with dumped stone or riprap sized as necessary.

§ 79-26. Drainage structures.

- A. Drainage structures including catch basins, drop inlets and manholes, shall generally be round precast concrete sections for pipe diameters up to 36 inches. Four-foot diameter sections shall be used for pipe sizes up to 18 inches diameter and five-foot diameter sections shall be used for pipe sizes of 24 inches to 36 inches diameter. For pipe sizes above 36 inches, special structures shall be designed and installed and may be precast or cast in place.
- B. All precast concrete sections and units shall be reinforced concrete, conforming to ASTM Designation C 478, latest revision.
- C. The precast concrete base shall be a minimum of eight inches thick and shall be cast as an integral part of the first riser section, together forming a bottom section.
- D. The precast concrete riser sections shall have a minimum diameter of four feet and a minimum wall thickness of five inches.
- E. Precast riser sections of variable heights shall be installed over the bottom section as required and shall be continued to the surface. The joints between the several sections

shall be sealed by a flexible premolded endless rubber gasket held in compression by the precast concrete joint.

- F. The precast concrete lid shall be reinforced concrete with a minimum thickness of eight inches designed to withstand all superimposed earth loads in addition to maximum HS20 truck loadings. The lid shall be cast with an opening of the shape and size required by the frame and grate or cover as specified on the plans.
- G. Drainage structure steps shall be required only when structure depths exceed five feet. Steps shall be in line vertically and spaced at 12 inches.
- H. Details of the design and installation of drainage structures shall be completely shown on the construction plans as required in § 79-3. [**Amended 8-11-1994 by L.L. No. 1-1994**]
 - (1) Street catch basins and drop inlets shall be Syracuse Castings 3430A and Neenah 24916.
 - (2) Drainage manholes shall be Syracuse Castings 1255B or Neenah Foundry 25139. Lettering on cover is to read "Storm Sewers."
 - (3) Yard drainage shall be Syracuse Castings 1455G or approved alternative.
- I. Frames, covers and grates shall be placed true to line and grade. They shall make firm, full and even bearing on the respective underlying surfaces and shall be nonrocking under the influence of traffic or other loads.

ARTICLE VII

Signs**§ 79-27. Street name and traffic signs.**

The Town shall install all street name and traffic signs required by the Town. The developer shall furnish the Town with said signs.

ARTICLE VIII

Applicability; Enforcement; Penalties**§ 79-28. Applicability.**

The specifications and requirements of this chapter shall apply to all street construction in, and to all work performed within, the highway rights-of-way of the Town of Palermo, New York.

§ 79-29. Compliance required.

All owners, contractors and their agents performing work regulated by this chapter shall be responsible for compliance therewith. Compliance with the specifications and requirements of this chapter shall be a precondition to the acceptance of streets by the Town of Palermo.

§ 79-30. Penalties for offenses. [Amended 8-11-1994 by L.L. No. 1-1994]

Any person or persons, firm or corporation who violates any provisions of this chapter shall be guilty of a misdemeanor and shall be subject to a maximum fine of \$1,000 or by imprisonment for not more than one year, or both.

HIGHWAY SPECIFICATIONS

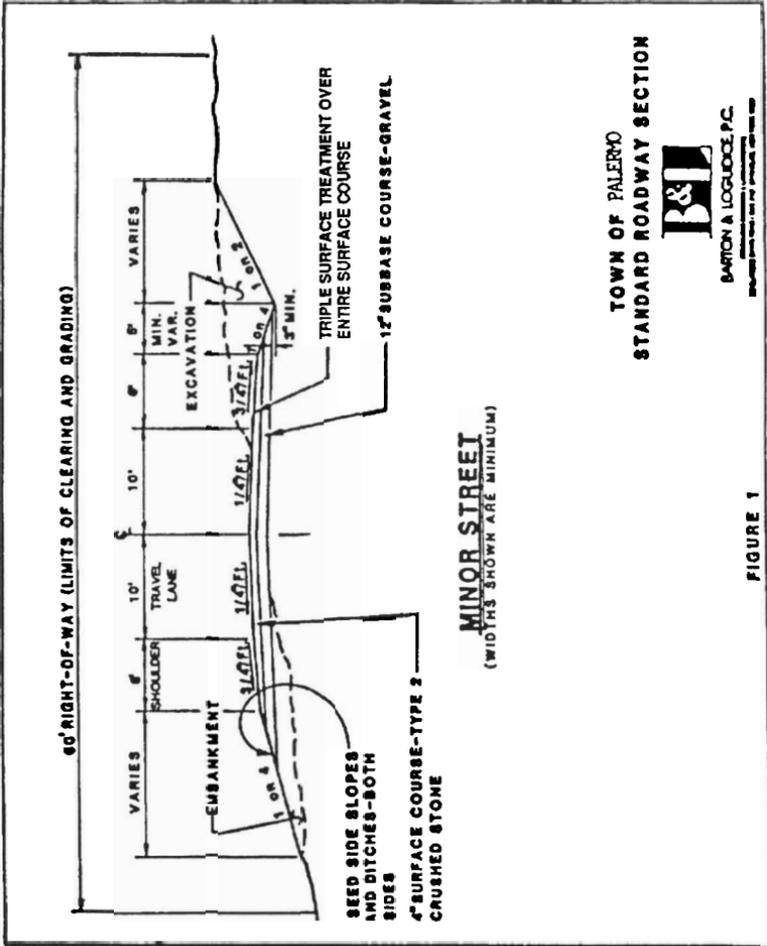
APPENDIX A

Procedure for Establishing Names of New Roads as Required by Resolution [Added 8-11-1994 by L.L. No. 1-1994]

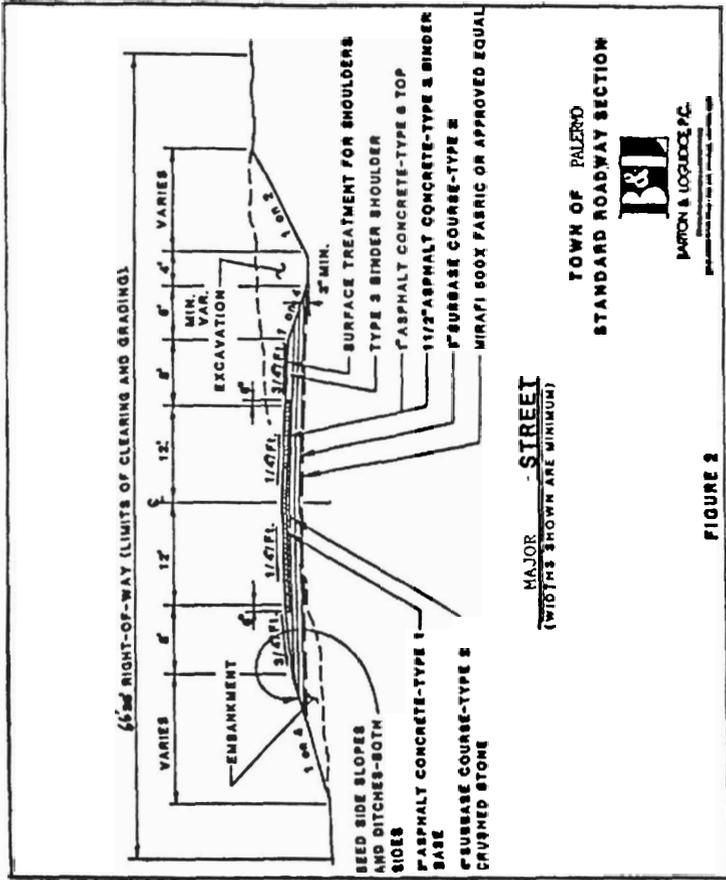
- A. After the application¹ has been received by the Planning Board for naming or renaming any road(s), all pertinent information regarding the location, person requesting the change, etc., is to be passed on to the Palermo Town Superintendent of Highways for his evaluation.
- B. The Town Superintendent of Highways will investigate with the Town of Volney, Town of New Haven, Town of Schroepel, Town of Mexico, Town of Hastings and, if he deems necessary, the County Highway Department for any possible duplication.
- C. The Town Superintendent of Highways' comments, after his investigation, will be sent back to the Planning Board within 30 days for its recommendations to the Town Board.

¹ Editor's Note: The permit application is on file in the office of the Town Clerk.

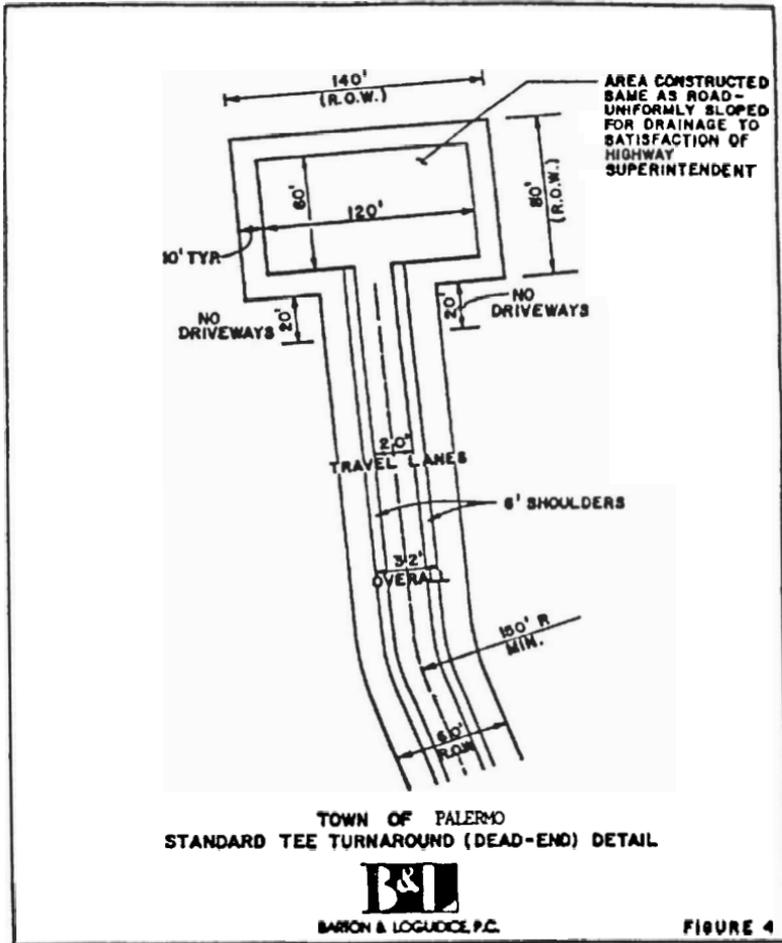
HIGHWAY SPECIFICATIONS



HIGHWAY SPECIFICATIONS



HIGHWAY SPECIFICATIONS



Chapter 85

JUNKYARDS AND JUNK DEALERS

- § 85-1. **Legislative intent.**
- § 85-2. **Definitions.**
- § 85-3. **License required.**
- § 85-3.1. **Exceptions for certain machinery and antique vehicles.**
- § 85-4. **Presumption.**
- § 85-5. **Application for license.**
- § 85-6. **Fencing.**
- § 85-7. **License fees; issuance; availability, term; transferability; revocation.**
- § 85-8. **Regulations.**
- § 85-9. **Penalties for offenses.**

[HISTORY: Adopted by the Town Board of the Town of Palermo 11-9-1961. Amendments noted where applicable.]

GENERAL REFERENCES

Solid waste — See Ch. 118.

§ 85-1. Legislative intent.

By the adoption of this chapter the Town Board of the Town of Palermo, County of Oswego, New York, declares its intent in so doing to be to regulate, control and license the activities or businesses known as auto "graveyards," junkyards, secondhand parts collection areas, the processing of used metals for resale

and the dumping, storage and disposal of waste, secondhand or used materials of whatever composition. Said Town Board hereby declares that such activities or businesses can constitute a hazard to property and persons and a public nuisance. Such materials may be highly inflammable and sometimes explosive. Gasoline tanks on old autos often contain in some quantity combustible gasoline; the engine and other parts of such autos are frequently covered with grease and oil which is also inflammable. The tires, plastic seats, tops and other elements of such autos are also inflammable. Batteries and other elements of such autos can contain acid and other matter potentially harmful to humans. These autos frequently contain sharp metal or glass edges or points upon which a human could receive serious cuts and abrasions. These autos can constitute attractive nuisances to children and certain adults. The presence of such junkyards even in areas zoned for business or industry is unsightly and tends to detract from value of surrounding land and property unless such areas are properly maintained and operated.

§ 85-2. Definitions. [Amended 10-2-2001 by L.L. No. 5-2001]

As used in this chapter, the following terms shall have the meanings indicated:

CODE ENFORCEMENT OFFICER — An individual designated by the Town to represent them in particular matters pertaining to this chapter.

JUNK — The outdoor storage or deposit of the following:

- A. Two or more junked vehicles.
- B. One or more abandoned mobile homes.
- C. One or more abandoned recreational vehicles.
- D. One or more inoperable or unseaworthy boats, whether propelled by motor, sail or any other means.

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- E. Two or more inoperable or abandoned appliances, including but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers and televisions.
- F. Waste paper, rags, scrap metal or discarded materials.
- G. Toxic chemicals and radioactive materials at levels that could be injurious to human, animal and biological life, exempting NYS licensed applicators.
- H. Two or more abandoned or irreparably damaged pieces of indoor furniture, including but not limited to sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs and chests of drawers.
- I. Any combination of the above.

JUNK VEHICLE —

- A. Any motor vehicle whether automobile, bus, trailer, truck, tractor, mobile home, motorcycle, motor bicycle, mini bicycle, ATV or snowmobile, or any other contraption originally intended for travel on the public highways, or any motorboat, row-boat or sailboat which is:
 - (1) Unlicensed, unregistered and/or uninspected, old, wrecked, stored, discarded, abandoned or dismantled or partly dismantled, or is not in any condition for legal use upon the public highway or waterways; or
 - (2) Being held or used for the purpose of resale, reclamation, storage or disposal of parts; or
 - (3) In such condition as to cost more to repair and place in operating condition than its reasonable market value at the time before such repair.
- B. With respect to any motor vehicle not required to be registered, licensed and/or inspected or motor vehicle not usually used on public highways, the fact that such motor vehicle has remained unused for more than one year and is not in condition to be removed under its own power shall

be presumptive evidence that such motor vehicles is a junked motor vehicle.

- C. The use of the term in the singular herein is intended, where applicable, to include the plural.

JUNKYARD — A licensed location for the placement and storage of junk.

OUTDOOR STORAGE — Placement of goods in the open air not covered by a building consisting of four walls and a roof.

PERSON — An individual, an association, a partnership, a corporation or a limited-liability company.

SCRAP PROCESSING FACILITY — A location that stores and/or processes iron, steel and nonferrous scrap metals.

§ 85-3. License required. [Amended 10-2-2001 by L.L. No. 5-2001]

- A. No person shall engage in or conduct, whether for profit or otherwise, on real property within the Town of Palermo, either for himself or for and on behalf of any other person or corporation directly or indirectly, as agent, employee or otherwise, at wholesale or retail, any operation which involves the collection, storage, burning, dumping, disassembling, dismantling, salvaging, sorting or otherwise, handling or arranging, for sale, resale, storage or disposal or otherwise, of junk or junk vehicles as defined in this chapter, without first obtaining a junkyard license.
- B. Any person other than a licensed New York auto dealer or licensed New York repair station who shall permit the collection or storage outside of a building of two or more unlicensed or inoperative autos, or the shell or body thereof, shall be considered as engaged in the operation of an automobile junkyard and shall be required to obtain a license pursuant to the terms of this chapter.

§ 85-3.1. Exceptions for certain machinery and antique vehicles. [Added 10-2-2001 by L.L. No. 5-2001]

- A. This chapter shall not apply to farm machinery, construction machinery, plowing machinery or lawn maintenance machinery, including tractors, where such machinery is actively used. "Actively used" shall mean the machinery being used for its intended purpose within the immediate two years prior to its placement on the premises.
- B. This chapter recognizes the existence of that person or those persons who collect antique vehicles (25 years or older) and that person or those persons who restore antique vehicles.
- (1) The collection of unlicensed antique vehicles in number no greater than five shall be permitted, providing that said vehicles are in a condition such that they could be licensed and used upon the public highways and/or waterways.
 - (2) Any person showing that he or she collects usable antique vehicles for business or hobby shall be allowed one vehicle for restoration purposes and three additional vehicles to implement restoration, providing that said restoration is completed within five years from the date of placement of the vehicle to be restored on the premises.
 - (3) Any person desiring to collect or restore antique vehicles under this section shall apply for a restoration or collection permit from the Town Clerk and shall provide the Town Clerk with the year, make, model and vehicle identification number for each vehicle stored for antique collection or restoration purposes. Restoration and collection permits are subject to approval by a majority of the Town Board of the Town of Palermo.

§ 85-4. Presumption. [Amended 8-11-1994 by L.L. No. 1-1994]

For the purposes of this chapter, and for the purposes of proof upon the trial of any action, proceeding or other legal remedy pursued, there shall be a presumption that any person who shall have on his premises two or more unregistered autos shall be engaged in an activity or business of operating a secondhand junk and auto parts business. For the purposes of this chapter, any person who shall have on his real property within the Town of Palermo, County of Oswego, New York, two or more autos, as defined in § 85-2, shall be required to comply with all the terms and provisions of this chapter and shall fall within the provisions and terms as set out herein for license requirement.

§ 85-5. Application for license.

- A. Each applicant for a license hereunder shall submit an application therefor which shall contain the following information:
- (1) That the applicant is over 21 years of age.
 - (2) That he is a citizen of the United States.
 - (3) Whether he has ever been convicted of a felony or misdemeanor.
 - (4) Other facts or evidence as is deemed necessary to establish that he is a person fit and capable of properly conducting the activity or business for which the license is sought.
 - (5) A description of the exact type of business he intends to conduct.
 - (6) The nature of the materials he intends to handle.
 - (7) The number of employees he intends to engage.

- (8) The name and address of the owner or owners of the land and the nature of the right of occupancy of the applicant to the use of such land.
 - (9) Such other and further information as the Town Board shall determine necessary to properly consider the application.
- B. At the time of making the application, the applicant shall submit to and file with the Town Clerk a map or plan of the real property upon which he intends to conduct the activity or business for which he is making application for a license hereunder with the area of such real property which it is proposed to use for such purpose, the location of the fence required hereunder in § 85-6 indicated thereon as well as the location of any buildings on such land and the location of any streets or highways abutting or passing through such land and the location of any water, sewer or gas mains or laterals available thereto as well as the general drainage pattern of such land.
- C. In the application, the applicant shall agree that if granted the license applied for, he will conduct the activity or business pursuant to the regulations hereinafter set forth and that upon his failure to do so, such license may be revoked forthwith.
- D. A person presently engaged in or conducting an activity or business such as described herein, on real property within the Town of Palermo, County of Oswego, New York, must apply for a license therefor within 30 days of the adoption of this chapter. If the place where he conducts such activity or business presently complies with the requirements a person must meet to secure a license in the first instance, he shall be issued a license therefor if he meets the other requirements contained herein. If the place where he conducts such activity or business does not presently comply with the requirements a person must meet to secure a license in the first instance, he may be granted a temporary license for one year, during which year he must arrange the place where he conducts such

activity or business so that it does then comply with the requirements a person must meet to secure a license in the first instance. If at the end of such year such person has not so arranged his place of such activity or business, he shall forthwith cease and desist engaging in or conducting the same and shall remove from such place any autos, parts or other materials of the nature described herein.

- E. If the person conducting such activity or business is not the sole owner thereof, he shall state such fact at the time he applies for his temporary license, and the Town Clerk at the time of issuing such temporary license shall send the owners or each of them a notice of the issuance of such temporary license to such person, together with a copy of this chapter.
- F. The application shall also contain whether or not the applicant has obtained a valid junk dealers license under Article 6 of the General Business Law. **[Added 8-11-1994 by L.L. No. 1-1994]**
- G. Each application for a license hereunder shall be subject to site plan review and a mandatory public hearing before the Planning Board of the Town of Palermo. **[Added 10-2-2001 by L.L. No. 5-2001]**
- H. An environmental assessment form (EAF) shall be completed and submitted with all applications pursuant to the provisions of the State Environmental Quality Review Act, 6 NYCRR Part 617. If the EAF indicates that the proposed activity may have significant environmental consequences, the Palermo Planning Board shall require that a draft environmental impact statement (DEIS) be submitted with the application. The application shall not be considered complete until the DEIS has been accepted by the Palermo Planning Board. **[Added 10-2-2001 by L.L. No. 5-2001]**

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§ 85-6. Fencing. [Added 8-11-1994 by L.L. No. 1-1994]

Before use, a new junkyard shall be completely surrounded with a fence at least eight feet in height which substantially screens and with a suitable gate which shall be closed and locked except during the working hours of such junkyard or when the applicant or his agent shall be within. Such fence shall be erected not nearer than 50 feet to a public highway. All motor vehicles and parts thereof stored or deposited by the applicant shall be kept within the enclosure of the junkyard except as removal shall be necessary for the transportation of the same in the reasonable course of the business. All wrecking or other work on such motor vehicles and parts and all burning of the same within the vicinity of the junkyard shall be accomplished within the enclosure. Where the topography, natural growth of timber or other considerations accomplish the purposes of this chapter, in whole or in part, the fencing requirements hereunder may be reduced by the legislative body upon granting the license; provided, however, that such natural barrier conforms to the purposes of this chapter.

§ 85-7. License fees; issuance; availability, term; transferability; revocation.

- A. The license. The fee for the license is as set from time to time by resolution of the Town Board of the Town of Palermo,¹ which sum covers not only the cost of issuing the license itself, but also the cost of making the necessary inspections of the premises to ascertain compliance with the regulations hereinafter prescribed. Said fee shall be deposited with the Town Clerk at the time of the making of the application for a license hereunder and shall be retained by the Town Clerk as and for the fee for license, except that in the event that the license shall be denied or refused by the Town Board as hereinafter set forth, the fee shall be returned to the applicant. In addition to the license fee, any new applicant shall pay to the town the cost of advertising such application and such other

1. Editor's Note: The current fee schedule is on file in the Town Clerk's office.

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reasonable costs incident to the hearing as are clearly attributable thereto, and such costs shall be paid to the Town Clerk prior to publication of the notice of public hearing. **[Amended 8-11-1994 by L.L. No. 1-1994]**

- B. Such license shall be granted by a majority vote of the Town Board of the Town of Palermo, County of Oswego, New York. Any application made to the Town Clerk shall be presented to the Town Board by said Town Clerk at the next regular meeting of the Town Board for consideration and action. The Town Board shall have the right to table action on the application in order that it may view the premises, investigate the background of the applicant and such other investigation as they shall feel necessary upon the consideration of the application. The Town Board shall not delay action on the application from the time of its presentation to the Town Board by the Town Clerk as hereinbefore set out. A hearing on the application shall be held within the municipality not less than two nor more than four weeks from the date of the receipt of the application by the legislative body. Notice of the hearing shall be given to the applicant by mail, postage prepaid, to the address given in the application and shall be published once in a newspaper having a circulation within the municipality, which publication shall be not less than seven days before the date of the hearing. **[Amended 10-2-2001 by L.L. No. 5-2001]**

- (1) At the public hearing, the Planning Board shall hear the applicant and all other persons wishing to be heard on the application for a license to operate, establish or maintain the junkyards. In considering such application, it shall take into account the suitability of the applicant with reference to any record of convictions for any type of larceny or receiving of stolen goods and to his ability to meet the requirements of this chapter. Additionally, the Board shall take into account, after proof of legal ownership or right to such use of the property for the license period by the applicant, the nature and

development of surrounding property, such as the proximity of churches, schools, hospitals, public buildings or other places of public gathering; and whether or not the proposed location can be reasonably protected from affecting the public health and safety by reason of offensive or unhealthy odors or smoke, or of other causes.

- (2) Aesthetic considerations. At the public hearing regarding location of the junkyard, the Planning Board may also take into account the clean, wholesome and attractive environment which has been declared to be of vital importance to the continued general welfare of its citizens by considering whether or not the proposed location can be reasonably protected from having an unfavorable effect thereof. In this connection, the Planning Board may consider collectively the type of road servicing the junkyard or from which the junkyard may be seen, the natural or artificial barriers protecting the junkyard from view, the proximity of or main access routes thereto, as well as the reasonable availability of other suitable sites for the junkyard.
- (3) Grant or denial of application for license; appeal. After site plan review has been completed, the Town Board shall, within one month, make a finding as to whether or not the application should be granted, giving notice of its finding to the applicant by mail, postage prepaid, to the address given on the application. If approved, the license, including the certificate of approved location, shall be issued and shall remain in effect until the following April 1. Approval shall be personal to the applicant and not assignable. The Town Board shall have the right to place any conditions or restrictions on said license as it deems necessary. The license shall be renewed thereafter upon payment of the annual license fee without hearing, provided all provisions of this chapter are complied with during the license period,

the junkyard does not become a public nuisance under the common law and the applicant is not convicted of any type of larceny or the receiving of stolen goods. The determination of the Town Board may be reviewed under Article 78 of the Civil Practice Law and Rules.

- C. Such license shall be kept at all times at the licensee's place of activity or business for which the license is issued and shall be available at all times to any member of the Town Board, the Constable, members of the Oswego County Sheriff's Office, members of the New York State Police and any person or persons appointed by the Town Board to inspect such licensed premises.
- D. Such license shall be effective from the date of its issuance until the following April 1 and then renewed yearly thereafter without hearing upon payment of the annual license fee. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- E. Such license is personal with the licensee. It does not go with the title of the land nor may it be sold, assigned, transferred or disposed of.
- F. The Palermo Town Board may revoke a junkyard permit upon reasonable cause should the applicant fail to comply with any provision of this chapter. Before a permit may be revoked, a public hearing shall be held by the Town Board. Notice of the hearing shall be made in the official newspapers five days prior to the date thereof. The permit holder shall be notified of the hearing by certified mail at least five days prior to the hearing. At the hearing the Town Board shall hear the permit holder and all other persons wishing to be heard on the revocation of the junkyard permit. Should the Board decide to revoke a permit, the reasons for each revocation shall be stated in the Town Board minutes. The permit holder shall be immediately notified of the revocation by certified mail. **[Amended 10-2-2001 by L.L. No. 5-2001]**

§ 85-8. Regulations.

- A. The licensee must personally manage or be responsible for the management of the activity or business for which the license is granted.
- B. The licensee must maintain an office and a sufficient number of employees on the premises to assure the proper and safe conduct of such activity or business, to minimize the fire hazard therefrom and to prevent improper trespass thereon by children and others.
- C. Inside and adjacent to and contiguous with such fence as provided in § 85-6, a strip of land at least 10 feet in width shall be kept free of all dry grass or other growth or other combustible material so as to provide a fire lane or line around the whole area where the activity or business of the licensee is being conducted. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- D. The autos, parts and materials dealt in by the licensee shall be disassembled or dismantled by means other than by burning. They shall be piled or arranged in neat rows so as to permit easy, clear passage through the area.
- E. There shall be maintained at each such place of activity or business for which a license is issued at least one fire extinguisher of approved design and capacity for each 40,000 square feet of area. Each such fire extinguisher shall be hung or mounted in a conspicuous place, clearly marked and available.
- F. Suitable sanitary facilities shall be available, connected to septic tanks, for the use and convenience of the employees of the licensee as well as the general public visiting the area.
- G. The area of the licensee's activity or business shall not be used as a dump area nor as a place for the burning and disposal of junk or trash.

- H. The Town Board, the Constable, members of the Oswego County Sheriff's Office, members of the New York State Police, the Code Enforcement Officer and any person or persons appointed by the Town Board shall be granted access to the area of activity or business of the licensee at all reasonable hours to inspect the same for compliance herewith. **[Amended 8-11-1994 by L.L. No. 1-1994]**

§ 85-9. Penalties for offenses.

- A. The owner or licensee of any such place of business who commits or permits any acts in violation of any of the provisions of this chapter shall be deemed to have committed an offense against such chapter and also shall be liable for any such violation or the penalty therefor. Each day such violation shall continue or be permitted to exist shall constitute a separate violation.
- B. Any person or persons, firm or corporation who violates any provisions of this chapter shall be guilty of a misdemeanor and shall be subject to a maximum fine of \$1,000 or imprisonment for not more than one year, or both. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- C. Conviction for any above-mentioned violation shall constitute and effect an immediate forfeiture of the license.
- D. Any person violating this chapter shall be subject to a civil penalty enforceable and collectible by the town in the amount of \$100 for each such offense. Such penalty shall be collectible by and in the name of the town for each day that such violation shall continue.
- E. In addition to the above-provided penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of such chapter.

F. The Town Board may also maintain an action or proceeding in the name of the Town to have a junkyard declared a public nuisance and direct that the cost of securing or demolishing or removing the nuisance, including the actual cost of securing or removing such nuisance, be assessed against the land on which it is located. **[Added 5-27-1999 by L.L. No. 2-1999]**

- (1) Investigation and report. When it is the opinion of the Code Enforcement Officer or upon receipt of information that a junkyard is or may become dangerous or unsafe to the general public, he shall cause or make an inspection thereof and report in writing to the Town Board his findings and recommendations in regard to its security or demolition or removal.
- (2) Town Board order. The Town Board shall thereafter consider such report and by resolution determine, if in its opinion the report so warrants, that such junkyard is a public nuisance and order its being secured, if the same can be safely secured, or its demolition and removal, and further order that a notice be served upon the persons and in the manner provided herein. For purposes of this Subsection F, a "public nuisance" shall be defined as a danger to the public health, safety or welfare.
- (3) Notice; contents. The notice shall contain the following:
 - (a) A description of the premises.
 - (b) A statement of the particulars in which the junkyard is unsafe or dangerous.
 - (c) An order outlining the manner in which the junkyard is to be made safe and secure, or demolished and removed.

- (d) A statement that the securing or removal of such junkyard shall commence within 30 days of the service of the notice and shall be completed within 60 days thereafter.
 - (e) A statement that in the event of neglect or refusal of the person served with the notice to comply with the same, a survey of the premises will be made and if such survey shall report the junkyard unsafe or dangerous, an application will be made at a Special Term of the Supreme Court in the judicial district in which the property is located for an order determining the junkyard to be a public nuisance and directing that it shall be secured or demolished and removed and that the expenses of the proceedings to secure or remove the junkyard, including the actual cost of securing or removing such junkyard, shall be assessed against the land on which it is located.
- (4) Service of notice. The notice shall be served:
- (a) By personal service of a copy thereof upon the owner, executor, administrator, agent, lessee, or any person having a vested or contingent interest in such unsafe junkyard as shown by the records of the Receiver of Taxes (or Tax Collector) or the County Clerk; if no such person can be reasonably found, by mailing such owner by registered mail, a copy of such notice directed to his last known address as shown by the above records.
 - (b) By personal service of a copy of such notice upon any adult person residing in or occupying said premises if such person can be reasonably found.
 - (c) By securely affixing a copy of such notice upon any building located on the junkyard property.

- (5) Application to court. In the event that the securing or removal of such junkyard does not commence within 30 days of the service of the notice, or is not completed within 60 days thereafter, the Town Board may by resolution direct the Supervisor of the Town to make an application at a Special Term of the Supreme Court in the judicial district in which such property is located for an order determining the junkyard to be a public nuisance and directing that it shall be repaired or secured or demolished and removed.
- (6) Assessment of expenses. All expenses incurred by the Town in connection with the proceedings to secure or demolish and remove the junkyard, including the cost of actually removing junk and junk vehicles, shall be assessed against the land on which such junkyard is located and shall be levied and collected in the same manner as provided in Article 15 of the Town Law for the levy and collection of a special ad valorem levy.
- (7) Emergency cases. Where it reasonably appears that there is present a clear and imminent danger to the life, safety, or health of any person or property, unless an unsafe junkyard is immediately secured or demolished, the Town Board may by resolution authorize the Code Enforcement Officer to immediately cause the removal or demolition of such unsafe junkyard. The expenses of such removal or demolition shall be a charge against the land on which it is located and shall be assessed, levied, and collected as provided in Subsection F(6) hereof.

Chapter 91

MANUFACTURED HOME PARKS

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- § 91-3. **Definitions.**
- § 91-4. **License required.**
- § 91-5. **Temporary permit.**
- § 91-6. **Permit extension.**
- § 91-7. **Time limits on temporary permits.**
- § 91-8. **Filing of application; contents.**
- § 91-9. **Filing of copies; review and recommendations.**
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- § 91-11. **Application for transfer of license.**
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- § 91-48. **Solid waste storage and removal.**
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- § 91-59. **Responsibilities of park occupants.**
- § 91-60. **Penalties for offenses.**
- § 91-61. **Code Enforcement Officer.**
- § 91-62. **Exclusion from conflicting provisions.**

[HISTORY: Adopted by the Town Board of the Town of Palermo 6-13-1974 by L.L. No. 1-1974. Amendments noted where applicable.]

§ 91-1. Title. [Amended 10-2-2001 by L.L. No. 4-2001]

This chapter shall be known as a "Local Law Regulating Manufactured Home Parks for the Town of Palermo, New York."

§ 91-2. Purpose. [Amended 10-2-2001 by L.L. No. 4-2001]

It is the purpose of this chapter to promote the health, safety, morals and general welfare of the inhabitants of the Town of

Palermo, Oswego County, New York, by the regulation of the occupancy of manufactured homes and manufactured home parks within said town.

§ 91-3. Definitions. [Amended 9-2-1993 by L.L. No. 7-1993; 10-2-2001 by L.L. No. 4-2001]

As used in this chapter, the following terms shall have the meanings indicated:

DWELLING — A building used wholly for habitation by one or more families.

MANUFACTURED HOME — A transportable, single-family dwelling unit suitable for year-around occupancy and containing the same water supply, waste disposal and electrical systems as immobile housing. All manufactured homes located within the defined manufactured home park must meet the construction requirements as set forth by the Department of Housing and Urban Development (HUD) and be certified as such by HUD Seal and meet the conditions set forth in § 67-3B of the Palermo Town Code.

MANUFACTURED HOME LOT — A parcel of land for the placement of a single manufactured home and the accessory structures incident to it, including such open spaces as are used in connection with such manufactured home.

MANUFACTURED HOME LOT WIDTH — The mean distance measured parallel to the front lot line between the two side lot lines.

MANUFACTURED HOME PARK — A parcel of land under single ownership which is improved for the placement of manufactured homes for nontransient use and which is offered to the public for the placement of two or more manufactured homes.

MANUFACTURED HOME STAND — That part of a manufactured home lot which has been reserved for the placement of the manufactured home.

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STAND AREA — That part of a manufactured home lot which is reserved for the placement of the manufactured home stand. The stand area shall be located according to the minimum distances specified in § 91-34 of this chapter.

§ 91-4. License required. [Amended 10-2-2001 by L.L. No. 4-2001]

It shall be unlawful for any persons to construct, maintain, operate, alter or extend a manufactured home park within the limits of the Town of Palermo unless such person shall first obtain a license therefor, except that the maintenance or operation of a manufactured home park in existence on the effective date of this chapter may be continued under a temporary permit for such period of time and under such conditions as are hereinafter prescribed. Such license shall be renewed annually.

§ 91-5. Temporary permit. [Amended 10-2-2001 by L.L. No. 4-2001]

A temporary permit, upon written request therefor, shall be issued by the Town Board for any manufactured home park in existence upon the effective date of this chapter, permitting the park to be maintained and operated during the period ending 180 days after the effective date of this chapter, without being subject to the provisions of this chapter except such of the provisions as are made expressly applicable to permittees.

§ 91-6. Permit extension.

The term of the temporary permit, upon written request, shall be extended for a period not to exceed one additional period of 180 days, provided that:

- A. The permittee shall have filed application for a license in conformity with §§ 91-8, 91-9, 91-10 and 91-11 of this chapter.

- B. The manufactured home park plans and specifications accompanying the application for license comply with all provisions of this chapter and all other applicable local laws and statutes. **[Amended 10-2-2001 by L.L. No. 4-2001]**
- C. The permittee shall have shown documented proof that he is endeavoring to make the existing park conform fully to the plans and specifications submitted with the application and has started substantial construction.
- D. Failure to make the existing park conform fully to such plans and specifications shall have been due to causes beyond the control of the permittee.

§ 91-7. Time limits on temporary permits.

A transfer of a temporary permit shall not be cause to extend the period of time allowing operation under such permit. No temporary permit or extension thereof shall extend beyond 360 days from the effective date of this chapter.

§ 91-8. Filing of application; contents. [Amended 9-28-1993 by L.L. No. 7-1993; 8-11-1994 by L.L. No. 1-1994]

Application for initial license shall be filed with and issued by the Code Enforcement Officer, with the approval of the Town Board. The application shall be in writing, signed by the applicant and shall include the following:

- A. The name and address of the applicant and owner of land.
- B. The address and location of the manufactured home park. **[Amended 10-2-2001 by L.L. No. 4-2001]**
- C. A complete plan of the park in conformity with the requirements of this chapter.
- D. Plans and specifications of all buildings, improvements, facilities and landscaping existing or to be constructed or

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installed within the manufactured home park. **[Amended 10-2-2001 by L.L. No. 4-2001]**

- E. A copy of all proposed restrictions, rules and regulations to be imposed on occupants of the manufactured home park. **[Amended 10-2-2001 by L.L. No. 4-2001]**
- F. Such further information as may be requested by the Code Enforcement Officer to enable him to determine if the existing or proposed park will comply with legal requirements and the New York State Health Department.

§ 91-9. Filing of copies; review and recommendations. [Amended 9-28-1993 by L.L. No. 7-1993]

The application with six sets of accompanying plans and specifications shall be filed with the Code Enforcement Officer. The Code Enforcement Officer, who shall be appointed by the Town Board, shall review the application and the proposed plans and specifications and shall forward five copies to the Planning Board for its review and recommendations as to compliance with the objectives of the General Plan. Such recommendations from the Code Enforcement Officer shall be in writing and shall be completed within 60 days from the time of submitting to the Planning Board by the Code Enforcement Officer.

§ 91-10. Application for renewal of license. [Amended 10-2-2001 by L.L. No. 4-2001]

Upon application, in writing, for renewal of a license and upon payment of the annual license fee, the Town Board shall renew such license for another year. Such applicant shall certify that no change has been made since the last licensing period and said manufactured home park conforms to all local laws, statutes and regulations applicable thereto. If any changes have taken place in the manufactured home park, the applicant must produce a revised plan showing said changes comply with

this chapter and all other local laws and regulations applicable thereto.

§ 91-11. Application for transfer of license.

Upon application, in writing, for transfer of a license (or temporary permit) and payment of the transfer fee, the Town Board shall issue a transfer.

§ 91-12. Fees. [Amended 9-28-1993 by L.L. No. 7-1993; 8-11-1994 by L.L. No. 1-1994]

- A. The annual license and permit fees for each manufactured home lot in use are to be as set from time to time by the Town Board of the Town of Palermo. A current copy of the fee schedule is on file in the office of the Town Clerk.
- B. The temporary permit fee for each one-hundred-eighty-day period shall be three-fourths (3/4) the annual license fee.
- C. All fees shall be paid to the Town Clerk at his office at regular business hours.

§ 91-13. Enforcement; right of entry. [Amended 9-28-1993 by L.L. No. 7-1993]

This chapter shall be enforced by the Code Enforcement Officer, and said officer and his inspectors shall be authorized and have the right, in the performance of duties, to enter any premises and make such inspections as are necessary to determine satisfactory compliance with this chapter and regulations issued hereunder. Such entrance and inspection shall be accomplished at reasonable times and in emergencies whenever necessary to protect the public interest.

§ 91-14. Responsibility to provide access.

Owners, agents, operators and occupants shall be responsible for providing access at reasonable times to all parts of the premises within their control to the Code Enforcement Officer or to his inspectors, acting in the performance of their duties.

§ 91-15. Duties of Code Enforcement Officer. [Amended 9-28-1993 by L.L. No. 7-1993]

It shall be the duty of the Code Enforcement Officer:

- A. To cause periodic inspections of all licensed premises once every six months and to inspect premises in pending applications for licenses or temporary permits and shall report the inspection of said manufactured home parks in the official minutes of the Town Board. **[Amended 10-2-2001 by L.L. No. 4-2001]**
- B. To investigate all complaints made under this chapter.
- C. To request that the Town Attorney take appropriate legal action on all violations of this chapter.

§ 91-16. Notice of violation; procedures. [Amended 9-28-1993 by L.L. No. 7-1993]

Upon determination by the Code Enforcement Officer that there has been a violation of any provision of this chapter or regulations issued hereunder, the Code Enforcement Officer shall give notice of such violation(s) in the following manner:

- A. The notice shall be in writing.
- B. The notice shall include a statement of the reasons for its issuance.
- C. The notice shall state a reasonable time for the performance of any act(s) necessary for compliance.

- D. The notice shall contain an outline of remedial action which, if taken, will effect compliance.
- E. The notice shall be served by certified mail directed to the licensee of the licensed premises as stated in the application, and such notification shall be deemed sufficient legal notice under this chapter. **[Amended 8-11-1994 by L.L. No. 1-1994]**

§ 91-17. Request for hearings.

Any person affected by any notice which has been issued in connection with the enforcement of this chapter may request and shall be granted a hearing before the Town Board, provided that such person shall file with the Town Board a written petition requesting such hearing and setting forth a statement of the grounds therefor within 10 days after receipt of the notice. The filing of the request for a hearing shall serve to stay the notice except in the case of an order issued under § 91-20 of the chapter. Upon receipt of said petition, the Town Board shall set a time and place for such hearing, which time shall be not later than 10 days after the day on which the petition was filed and shall give the petitioner written notice thereof.

§ 91-18. Written notice after hearing; failure to comply. [Amended 10-2-2001 by L.L. No. 4-2001]

Within 10 days after such hearing, the Town Board shall issue an order, in writing, sustaining, modifying or withdrawing the notice, which order shall be served as directed in § 91-16 of this chapter. Upon failure to comply with any order sustaining or modifying a notice, the license of the manufactured home park affected by the order shall be revoked.

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§ 91-19. Proceedings and notices to be public record. [Amended 9-28-1993 by L.L. No. 7-1993]

The proceedings of such hearing, together with a copy of every notice and order related thereto, shall be entered as a matter of public record in the office of the Code Enforcement Officer.

§ 91-20. Emergencies.

Whenever the Code Enforcement Officer finds that an emergency exists which requires immediate action to protect the public health, he may, without notice or hearing, issue an order stating the existence of such emergency and requiring that such action be taken as he may deem necessary to meet the emergency, including the suspension of the license or temporary permit or the closing of a park and evacuation of all occupants. Notwithstanding any other provisions of this chapter, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately but, upon petition to the Town Board, shall be afforded a hearing as soon as possible. The provisions of §§ 91-18 and 91-19 shall be applicable to such hearing and the order issued thereafter.

§ 91-21. Location. [Amended 9-28-1993 by L.L. No. 7-1993; 10-2-2001 by L.L. No. 4-2001]

Manufactured home parks may be located throughout the Town of Palermo, but in no event shall any manufactured home park be located within two aerial miles of an existing manufactured home park.

§ 91-22. General site requirements.

Condition of soil, groundwater level, drainage and topography shall not create hazards to the property or the health and safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors or other adverse influences,

and no portion shall be subject to flooding or excessive settling or erosion.

§ 91-23. Soil and ground cover requirements. [Amended 8-11-1994 by L.L. No. 1-1994; 10-2-2001 by L.L. No. 4-2001]

Exposed ground surfaces in all parts of any manufactured home park shall be paved, surfaced with crushed stone or other solid material or protected with grass or other vegetative materials capable of preventing erosion and of eliminating objectionable dust. Each manufactured home lot shall be provided with at least one tree of no less than two inches' caliper and shrubbed and screened as recommended by the Code Enforcement Officer.

§ 91-24. Site drainage plan requirements. [Amended 9-28-1993 by L.L. No. 7-1993]

Site drainage plans shall be prepared and submitted by a licensed professional engineer.

§ 91-25. Common facilities; construal of provisions.

- A. If facilities are provided for servicing, maintenance and management, including laundry facilities, said facilities shall be landscaped with trees and shrubs and shall provide adequate off-street parking space and shall be adequately maintained, cleaned and improved.
- B. Nothing contained in this section shall prevent the sale of a manufactured home connected to water, sewer and electrical distribution and collection systems and located on a manufactured home stand within the manufactured home park. **[Amended 10-2-2001 by L.L. No. 4-2001]**

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§ 91-26. Density and manufactured home lot size. [Amended 9-28-1993 by L.L. No. 7-1993; 10-2-2001 by L.L. No. 4-2001]

The maximum density of a manufactured home park shall be five manufactured home lots per gross acre of area included in said park. Manufactured home lots shall generally be a minimum of 8,000 square feet in area with a width of 100 feet. In special cases to encourage unusual park layout, or where park design provides for wider streets or more usable recreation or public open spaces than required by this chapter, or when other special conditions exist, the minimum lot requirement may be reduced upon consent of the Town Board. In no case, however, shall the gross density of eight manufactured home lots per acre be exceeded, nor shall the lot be reduced below 8,000 square feet nor shall the lot width be reduced below 80 feet. Manufactured home parks in existence on the effective date of this chapter which provide manufactured home lots having a width or area less than that prescribed above may continue to operate with spaces of the existing width and area as long as said manufactured home lot is not less than 35 feet wide and not less than 2,100 square feet in area.

§ 91-27. Required separation between manufactured homes. [Amended 9-28-1993 by L.L. No. 7-1993]

There shall be a separation space of at least 50 feet between a manufactured home and any other garages or structural addition. Patios, carports and individual storage facilities shall be included as a part of the manufactured home in determining separation and clearance.

§ 91-28. Required setbacks, buffer strips and screening.

- A. All manufactured homes shall be located at least 125 feet from any park property line. **[Amended 9-28-1993 by L.L. No. 7-1993]**

- B. A minimum distance of 12 feet shall be maintained between any manufactured home and the nearest pavement edge of an adjoining park street.
- C. Manufactured home park owners shall screen the park boundary as required by the Town Board, separating the park and such adjacent use with opaque fencing to a minimum height of six feet or vegetative growth which will rapidly attain a height and density equal to the opaque fence, or a combination of fencing and regulation as required by the Town Board.

§ 91-29. Required recreational areas.

In all parks accommodating or designed to accommodate 25 or more manufactured homes, there shall be one or more developed recreation areas which shall be easily accessible to all park residents. The size of such recreation areas shall be based upon a minimum of 100 square feet for each manufactured home lot.

§ 91-30. General street requirements; width; illumination. [Amended 9-28-1993 by L.L. No. 7-1993]

- A. General requirements. The internal street system in a manufactured home park shall be privately owned, constructed and maintained and shall be designed for safe and convenient access to all spaces and facilities intended for use by park occupants. Alignment and gradient shall be adapted to the topography, to safe movement of anticipated traffic and to satisfactory control of surface water and groundwater in compliance with submitted and approved designed grading plans.
- B. All street width shall be measured between the edges of the pavement and shall meet the following minimum requirements: All streets will be constructed at a twenty-four-foot pavement width, with a six-foot width of

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gravel-surfaced shoulder each side, for a total street width of 36 feet.

- C. Required illumination of park street system. All parks shall be furnished with lighting units, either overhead, side lights or a combination of both, so spaced and equipped as to provide for the safe movement of pedestrians and vehicles.

§ 91-31. Street construction and design standards.

- A. Surface. All streets shall be provided with a smooth, hard, dense surface which shall be durable and well drained under normal use and weather conditions and shall meet the approval of the Town Superintendent of Highways. **[Amended 9-28-1993 as L.L. No. 7-1993]**
- B. Grade. Grades of all streets shall be sufficient to ensure adequate surface drainage but, in any event, shall be not more than 8% or less than five-tenths percent (0.5%).
- C. Intersection. Street intersections shall be at approximately right angles. Offsets at intersections and intersections of more than two streets at one point shall be avoided.

§ 91-32. Off-street parking requirements.

- A. Off-street parking areas shall be provided in all manufactured home parks for the use of park occupants and guests. Such areas shall be furnished at the rate of at least two car spaces for each manufactured home lot, each space to be at least 180 square feet in area plus any required access and maneuvering space.
- B. Required car parking spaces shall be so located as to provide convenient access to the manufactured home but shall not in any event exceed a distance of 200 feet from the manufactured home that they are intended to serve.

§ 91-33. Walks.

- A. Common walk system. All common walkways shall be provided with a smooth, hard surface and shall have a minimum width of three feet.
- B. Individual walks. All manufactured home stands shall be provided with a walkway leading from the stand to the street or to a driveway or parking space connecting to a paved street. Such walking shall be provided with a smooth, hard surface and shall have a minimum width of two feet.

§ 91-34. Manufactured home stands.

- A. Each manufactured home lot shall be provided with a manufactured home stand capable of containing the manufactured home in a stable position.
- B. On lots where side lines are perpendicular to or inclined at any angle greater than 60° from the front lot line, the stand area shall comply with the following:
 - (1) No stand area shall be closer than 12 feet from the front lot line, 18 feet from the lot line on the entrance side, 15 feet from the lot line opposite the entrance side and 25 feet from the rear lot line. On random lots and lots where side lot lines are inclined at any angle less than 60° from the front lot line, the separation requirements of § 91-27 shall be substituted for the above stand area requirements.
- C. The manufactured home stand shall be constructed of either an impenetrable material at least six inches in thickness or surfaced with a layer of uniform size crushed stone to a depth of nine inches in lieu of paving. The grade change of the manufactured home stand shall not exceed one and one-half (1 1/2) feet, and surrounding land shall be graded to provide drainage away from said stand.

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§ 91-35. Storage areas.

An enclosed storage facility no less than 36 square feet nor more than 120 feet of storage space shall be provided on each manufactured home lot and shall be so constructed so as to blend aesthetically with the manufactured home and surrounding area and be located behind the manufactured home or carport or end of driveway. Such facility shall be located in such a way as to maintain the separation requirements of § 91-27 of this chapter.¹

§ 91-36. General water requirements.

An adequate, safe and potable supply of water shall be provided in each manufactured home park. All water supply systems shall be approved and installed as per plans approved by the Oswego County Health Department.

§ 91-37. Quantity of water.

The water supply shall be of such quantity and supply as required by the Oswego County Health Department.

§ 91-38. Water treatment.

The treatment of a private water supply shall be in accordance with applicable laws and regulations.

§ 91-39. General sewage requirements.

An adequate and safe sewage disposal system shall be provided in each manufactured home park as required and approved by the Oswego County Health Department. Where a public sewage disposal system is available, connection shall be made thereto in conformity with the regulations of the sewer district

1. Editor's Note: Former Section 9.15, Ground Floor Area, which immediately followed this section, was deleted 8-11-1994 by L.L. No. 1-1994.

applicable thereto. Where a public sewage disposal system is not available, an adequate private system shall be provided and installed by the park owner with the approval of the Oswego County Health Department.

§ 91-40. Individual sewer connection.

- A. Each manufactured home lot shall be provided with a sewer as approved and required by the Oswego County Health Department and approved by the Code Enforcement Officer, if applicable. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- B. Surface drainage shall be diverted away from the riser.

§ 91-41. General electrical requirements.

All manufactured home parks shall be provided with an electrical system so designed as to supply the connected load without exceeding the current carrying capacity of the conductors. Such electrical system shall be approved by the National Board of Underwriters.

§ 91-42. Power distribution lines.

Power lines shall be located underground and shall be located at least 18 inches below the ground surface and not less than one-foot radial distance from water, sewer, gas or communications lines.

§ 91-43. Individual electrical connections.

- A. Each manufactured home lot shall be provided with an approved disconnecting device and overcurrent protective equipment.

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- B. Outlet receptacles at each manufactured home stand shall be of the polarized type with grounding conductors and shall be of weatherproof construction.

§ 91-44. General fuel supply requirements.

The manufactured home park shall be provided with facilities for the safe storage of required fuels. All systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.

§ 91-45. Required features for piped gas outlets.

Each manufactured home lot provided with piped gas shall have an approved manual shutoff valve. The gas outlet shall be equipped with a cap to prevent accidental discharge of gas when the outlet is not in use.

§ 91-46. Liquefied petroleum gas systems.

Liquefied petroleum gas (LPG) systems shall comply with the regulations applicable thereto and with safety devices to relieve excessive pressures and shall have at least one accessible gas shutoff valve located outside the manufactured home. Liquefied petroleum gas containers installed on a manufactured home lot shall be securely fastened to prevent accidental overturning.

§ 91-47. Fuel oil storage tanks.

All fuel oil storage tanks shall be securely fastened in place and shall be equipped with permanently installed piping. The maximum storage tank per unit shall not exceed 275 gallons.

§ 91-48. Solid waste storage and removal.

The storage, collection and disposal of refuse in the manufactured home park shall be so conducted as to create no

health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution.

§ 91-49. Common solid waste disposal.

If a common refuse storage area is provided, it shall be rodentproof and located not more than 150 feet from any manufactured home lot. Containers shall be provided in sufficient number and capacity to properly store all refuse.

§ 91-50. Individual's solid waste containers.

If refuse containers are to be stored on individual manufactured home lots, such containers shall be stored so as to prevent containers from being tipped, to minimize spillage and container deterioration and to facilitate cleaning around them.

§ 91-51. Weekly removal of solid waste.

Garbage in all common refuse storage areas shall be removed at least once per week. The manufactured home park operator shall provide this service.

§ 91-52. Burning prohibited.

Disposal of refuse by burning on the site is expressly prohibited.

§ 91-53. Insect and rodent control.

Grounds, building and structures shall be kept free of insects, vermin and rodents.

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§ 91-54. Property maintenance.

All manufactured home parks shall control the growth of brush, weeds and grass, and yards shall be maintained in good condition at all times.

§ 91-55. Fire prevention.

- A. The manufactured home park shall be subject to the rules and regulations of any fire company contracted to supply service thereto by the Town of Palermo.
- B. Manufactured home parks shall be kept free of litter, rubbish and other flammable materials.
- C. Fires shall be made only in stoves and other equipment intended for that purpose.
- D. If a public water supply is available, fire hydrants shall be provided as required by the Town Board.

§ 91-56. Fire hydrant system; requirements. [Amended 9-28-1993 as L.L. No. 7-1993]

If a manufactured home park is designed for or contains 50 or more manufactured home lots, the manufactured home park operator shall provide a fire hydrant system approved by the Palermo Fire Department. Said fire hydrant shall be separate from the domestic system.

§ 91-57. Restrictions on occupancy.

- A. A manufactured home shall not be occupied for dwelling purposes unless it is properly placed on a manufactured home stand and connected to water, sewerage and electrical facilities.
- B. No space shall be rented for residential use of a manufactured home in any manufactured home park except for periods of 30 days or more. No manufactured

home shall be admitted to any park unless it meets the requirements of the American Standards Association Code, Provision A-119.1--1963, or its amendments, or Manufactured Home Manufacturers Association Standards for Plumbing, Heating and Electrical System or any state-administered code ensuring equal or better plumbing, heating and electrical installation.

§ 91-58. Responsibilities of park management.

- A. The person to whom a license for a manufactured home park is issued shall operate the park in compliance with this chapter and regulations issued hereunder and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.
- B. The park management shall notify park occupants of all applicable provisions of this chapter and inform them of their duties and responsibilities under this chapter and regulations issued hereunder.
- C. The park management shall supervise the placement of each manufactured home on its manufactured home stand, which includes securing its stability and installing all utility connections, after securing a building permit either in the manufactured home owner's name or under the park's name. **[Amended 9-28-1993 by L.L. No. 7-1993]**
- D. The park management shall maintain a register at the park containing the names of all park occupants. Such register shall be available to any authorized person inspecting the park.
- E. The park management shall notify the health authority immediately of any suspected communicable disease within the park.
- F. The park management shall permit no business that would involve the coming and going of patrons or the storage of

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any merchandise or supplies or parts. The purpose of this subsection is to maintain the manufactured home park as a place of residence.

§ 91-59. Responsibilities of park occupants.

- A. The park occupant shall comply with all applicable requirements of this chapter and regulations issued hereunder and shall maintain his manufactured home lot, its facilities and equipment in good repair and in a clean and sanitary condition.
- B. The park occupant shall be responsible for proper placement of his manufactured home on its manufactured home stand and proper installation of all utility connections in accordance with the instructions of the park management.
- C. The park occupant shall be responsible for complete skirting of his manufactured home within 30 days of occupancy. Any materials used for skirting or for the construction of enclosed patios, garages or structural additions, patios, carports and individual storage facilities shall be fire resistant and provide a finished exterior appearance.
- D. No park occupant shall conduct a business that would involve the coming and going of patrons or the storage of merchandise or supplies or parts. The purpose of this subsection is to maintain the manufactured home park as a place of residence only.

§ 91-60. Penalties for offenses. [Amended 8-11-1994 by L.L. No. 1-1994]

Any person or persons, firm or corporation who violates any provisions of this chapter shall be guilty of a misdemeanor and shall be subject to a maximum fine of \$1,000 or imprisonment for not more than one year, or both.

§ 91-61. Code Enforcement Officer. [Amended 9-28-1993 by L.L. No. 7-1993; 8-11-1994 by L.L. No. 1-1994]

The Town Board of the Town of Palermo shall appoint a Code Enforcement Officer for enforcement of the provisions hereunder, to serve at compensation as set by the Town Board.

§ 91-62. Exclusion from conflicting provisions. [Added 9-28-1993 by L.L. No. 7-1993]

Manufactured home parks are excluded from any laws, rules or regulations of the Town of Palermo which are in effect for the placing of a dwelling on a single building lot and would be in conflict with this chapter.

Chapter 96

NOTIFICATION OF DEFECTS

- § 96-1. **Prior notification required.**
- § 96-2. **Submission of notices.**
- § 96-3. **Maintenance of records.**
- § 96-4. **Supersession of statutory provisions.**

[HISTORY: Adopted by the Town Board of the Town of Palermo 5-22-1978 by L.L. No. 2-1978. Amendments noted where applicable.]

GENERAL REFERENCES

Highway specifications — See Ch. 79.

§ 96-1. Prior notification required. [Amended 2-25-1997 by L.L. No. 1-1997]

No civil actions shall be maintained against the Town or Town Superintendent of Highways for damages or injuries to person or property sustained by reason of any highway, bridge, street, sidewalk, crosswalk, or culvert being defective, out of repair, unsafe, dangerous or obstructed unless written notice of such defect, unsafe, dangerous or obstructed condition of such highway, bridge, street, sidewalk, crosswalk or culvert was actually given to the Town Clerk or Town Superintendent of Highways, and there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of. No such action shall be maintained for damages or injuries to person or property sustained solely in consequence of the existence of snow or ice upon any highway, bridge, street, sidewalk, crosswalk or culvert, unless written notice thereof,

specifying the particular place, was actually given to the Town Clerk or Town Superintendent of Highways, and there was a failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

§ 96-2. Submission of notices.

The Town Superintendent of Highways shall transmit, in writing, to the Town Clerk within five days after the receipt thereof all written notices received by him pursuant to this chapter and Subdivision 2 of § 65-a of the Town Law. The Town Clerk shall cause all written notices received by him or her pursuant to this chapter and Subdivision 2 of § 65-a of the Town Law to be presented to the Town Board within five days of the receipt thereof or at the next succeeding Town Board meeting, whichever shall be sooner.

§ 96-3. Maintenance of records. [Added 8-11-1994 by L.L. No. 1-1994]

The Town Clerk shall keep an indexed record, in a separate book, of all written notices which he or she shall receive of the existence of a defective, unsafe, dangerous or obstructed condition in or upon or of an accumulation of ice or snow upon any town highway, bridge, culvert or sidewalk, which record shall state the date of receipt of the notice, the nature and location of the condition stated to exist and the name and address of the person from whom the notice is received. All such written notices shall be indexed according to the location of the alleged defective, unsafe, dangerous or obstructed condition or the location of accumulated snow or ice. The record of each notice shall be preserved for a period of five years after the date it is received.

§ 96-4. Supersession of statutory provisions.

This chapter shall supersede in its application to the Town of Palermo Subdivisions 1 and 3 of § 65-a of the Town Law.

Chapter 102

PARKS AND RECREATION AREAS

ARTICLE I Rules and Regulations

- § 102-1. Summary of rules and regulations.**
- § 102-2. Complete rules on file.**
- § 102-3. Hours of operation.**
- § 102-4. Penalties for offenses.**

[HISTORY: Adopted by the Town Board of the Town of Palermo as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Rules and Regulations [Adopted 8-21-1989]

- § 102-1. Summary of rules and regulations.**
 - A. No person shall injure, deface, destroy, remove or misuse park property.
 - B. No dumping is allowed.
 - C. No firearms or fireworks are allowed except for law enforcement officials.
 - D. No air- or gas-propelled guns, slingshots, bows, etc., are allowed.
 - E. No abusive language or disruptive behavior is allowed.

No person or organization shall conduct meetings, parades, drill maneuvers, ceremonies or speeches without park permits.

- G. No loitering allowed near rest room facilities.
- H. No alcoholic beverages are allowed without a permit.
- I. No sales of alcoholic beverages are allowed.
- J. No glass bottles or containers are allowed.
- K. No person shall use or have in his or her possession any drugs as defined in the Penal Law of the New York State.

No signs, advertisements, circular notice statements or banner emblems are allowed without a permit.

- M. No begging, hawking, peddling or soliciting is allowed within the park.
- N. No person shall sell or offer for sale any article, thing or service without a permit.

Fires are allowed only in designated areas. Fires must be extinguished before leaving. No dumping of hot ashes is allowed except in designated areas.

- P. No hunting, fishing or trapping is allowed.
- Q. Dog, cats and other domesticated pets are permitted only if they are controlled at all times.

No snowmobiles; ATV's, minibikes and unlicensed motorcycles are prohibited.

No gambling or games of chance are allowed without a park permit.

The speed limit is five miles per hour.

PARKS AND RECREATION AREAS

§ 102-2

§ 102-4

§ 102-2. Complete rules on file. [Amended 8-11-1994 by L.L. No. 1-1994]

The complete definition of rules and regulations is available in the Town Offices.

§ 102-3. Hours of operation. [Added 8-11-1994 by L.L. No. 1-1994]

The hours of park operation will be 7:00 a.m. until dusk between April 1 and October 1.

§ 102-4. Penalties for offenses. [Added 8-11-1994 by L.L. No. 1-1994]

Any person or persons, firm or corporation who violates any provisions of this Article shall be guilty of a misdemeanor and shall be subject to a maximum fine of \$1,000 or imprisonment for not more than one year, or both.

Chapter 107

RECORDS

ARTICLE I Public Access

- § 107-1. Records access officer.**
- § 107-2. Powers and duties of records access officer.**
- § 107-3. Location; hours.**
- § 107-4. Requests for records.**
- § 107-5. Subject matter list.**
- § 107-6. Denial of access.**
- § 107-7. Fees.**
- § 107-8. Notice.**

[HISTORY: Adopted by the Town Board of the Town of Palermo: Art. I, 8-24-1993 as L.L. No. 6-1993. Amendments noted where applicable.]

ARTICLE I Public Access [Adopted 8-24-1993 as L.L. No. 6-1993]

§ 107-1. Records access officer.

The records access officer shall be the Town Clerk of the Town of Palermo, the Deputy Town Clerk or the designated agent in the absence of the Town Clerk.

§ 107-2. Powers and duties of records access officer.

The records officer shall ensure the following:

- A. Maintenance of a current subject matter list.
- B. Assistance to the requestor in identifying the requested records, if necessary.
- C. Upon locating the records, taking one (1) of the following actions:
 - (1) Making records available for inspection.
 - (2) Denying access to the records in whole or in part and explaining, in writing, the reason therefor.
- D. Upon request for copies of records, making such copies available upon payment of the established fees. Such copies shall be available within three (3) business days following the request.
- E. Upon request, certifying that the record is a true copy.
- F. Upon failure to locate a record, certifying that:
 - (1) The Town of Palermo is not the custodian for such records; or
 - (2) Records of which the Town of Palermo is the custodian cannot be found after diligent search.

§ 107-3. Location; hours.

Records shall be available for public inspection and copying at the Palermo Town Clerk's office during all hours in which the Town Clerk is regularly open for business.

§ 107-4. Requests for records.

- A. All requests shall be in writing.

- B. A response shall be given regarding such requests, which reasonably describes the record or records sought, within five (5) business days of receipt of the written request.
- C. A request shall reasonably describe the record or records sought. A person requesting records shall supply information regarding dates, file designations or other information which may be of assistance in describing the records sought.
- D. If the records access officer fails to grant or deny access to records within ten (10) business days after receipt of a written request, the request may be construed as a denial of access that may be appealed.

§ 107-5. Subject matter list.

- A. The records access officer shall maintain a reasonably detailed current list by subject matter of records within his or her possession, whether or not records are available pursuant to Subdivision 2 of § 87 of the Public Officers Law.
- B. The subject matter list shall be sufficiently detailed to permit identification of the category of the records sought and shall be updated when necessary.

§ 107-6. Denial of access.

- A. The governing body of a public corporation or the head, chief executive or governing body of other agencies shall hear appeals or shall designate a person or body to hear appeals regarding denial of access to records under the Freedom of Information Law.¹
- B. If requested records are not provided as required in these regulations, such failure shall be deemed a denial of access.

1. **Editor's Note: See Article 6 of the Public Officers Law.**

- C. The Supervisor of the Town of Palermo shall hear appeals for denial of access to records.
- D. Any person denied access to records may appeal within thirty (30) days of a denial.
- E. The time for deciding an appeal by the individual or body designated to hear appeals shall commence upon receipt of written appeal identifying:
 - (1) The date and location of a request for records.
 - (2) The records that were denied.
 - (3) The name and return address of the appellant.
- F. The agency shall transmit to the Committee on Open Government copies of all appeals upon receipt of an appeal. Such copies shall be addressed to:

Committee on Open Government
Department of State
162 Washington Avenue
Albany, New York 12231

- G. The person or body designated to hear appeals shall inform the applicant and the Committee on Open Government of its determination, in writing, within seven (7) business days of receipt of an appeal. The determination shall be transmitted to the Committee on Open Government in the same manner as set forth in Subsection F of this section.

§ 107-7. Fees.

Copies of records shall be provided upon prepayment of twenty-five cents (\$0.25) per page, excluding fixed costs to the town such as the operator's salary.

§ 107-8. Notice.

A notice containing the title and name and business address of the records and appeals person and the location where records can be seen shall be published in a local newspaper of general circulation. Such notice may be posted in a conspicuous location where records are kept.

Chapter 114

SITE PLAN REVIEW

ARTICLE I

Introductory Provisions

- § 114-1. **Statutory authority.**
- § 114-2. **Title.**
- § 114-3. **Intent and purpose.**
- § 114-4. **Review by Planning Board.**

ARTICLE II

Applicability and Definitions

- § 114-5. **Applicability.**
- § 114-6. **Effect on existing uses and structures.**
- § 114-7. **Conflict with other provisions.**
- § 114-8. **Definitions and word usage.**

ARTICLE III

Site Plan Review

- § 114-9. **Approval required; compliance.**
- § 114-10. **Sketch plan.**
- § 114-11. **Application requirements.**
- § 114-12. **Fees.**
- § 114-13. **Reimbursable costs.**

PALERMO CODE

ARTICLE IV
Review Standards

- § 114-14. **General standards and considerations.**
- § 114-15. **Specific standards and considerations.**

ARTICLE V
Public Hearing and Planning Board Decision

- § 114-16. **Public hearing.**
- § 114-17. **Planning Board decision.**

ARTICLE VI
Appeals

- § 114-18. **Appeal procedure.**

ARTICLE VII
Miscellaneous Provisions

- § 114-19. **Enforcement officer.**
- § 114-20. **Additional rules and regulations.**
- § 114-21. **Amendments.**
- § 114-22. **Integration of procedures.**
- § 114-23. **Penalties for offenses.**

[HISTORY: Adopted by the Town Board of the Town of Palermo 5-27-1993 as L.L. No. 2-1993. Amendments noted where applicable.]

GENERAL REFERENCES

Subdivision of land — See Ch. 125.

ARTICLE I
Introductory Provisions

§ 114-1. Statutory authority.

The Town Board of the Town of Palermo, Oswego County, New York, does hereby ordain the enactment of the Town of Palermo Site Plan Review Law pursuant to the authority and provisions of § 10 of the Municipal Home Rule Law and § 274-a of the Town Law.

§ 114-2. Title.

This chapter shall be known as "Town of Palermo Site Plan Review Law." The Town of Palermo is hereinafter referred to as the "town."

§ 114-3. Intent and purpose.

- A. Through site plan review, it is the intent of this chapter to promote the health, safety and general welfare of the town. A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitation of the town and, in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the town and the general welfare of its inhabitants.
- B. It is further the intent of the chapter to ensure the optimum overall conservation, protection, preservation, development and use of the natural and man-related resources of the town by regulating land use activity within the town through review and approval of site plans. It is not the intent of this chapter to prohibit per se any land use activity but to allow all land use activities which will meet the standards set forth by this chapter.

§ 114-4. Review by Planning Board.

The Planning Board is hereby authorized to review and approve or disapprove site plans for land uses within the town as hereinafter designated pursuant to and in accordance with the standards and procedures set forth in this chapter.

**ARTICLE II
Applicability and Definitions****§ 114-5. Applicability.**

- A. All land use activities within the town shall require site plan review and approval before being undertaken, except the following:
- (1) Construction of one- or two-family dwellings and ordinary accessory structures and related land use activities.
 - (2) Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this chapter.
 - (3) Ordinary repair or maintenance or interior alterations to existing structures or uses.
 - (4) Exterior alterations or additions to existing structures which would not increase the square footage of the existing structure by more than 25%.
 - (5) Nonstructural agricultural or gardening uses and nondevelopmental timber cutting.
 - (6) Signs under 16 square feet.
 - (7) The sale of agricultural produce and temporary structures related to sale of agricultural produce.
 - (8) Garage, lawn and porch sales not exceeding three days.

- B. Any person uncertain of the applicability of this chapter to a given land use activity may apply, in writing, to the Planning Board for a written jurisdictional determination.

§ 114-6. Effect on existing uses and structures.

This chapter does not apply to uses and structures which are lawfully in existence as of the date this chapter becomes effective. Any use which would otherwise be subject to this chapter that has been discontinued for a period of one year or more shall be subject to review pursuant to the terms of this chapter before such use is resumed. Any use or structure shall be considered to be in existence, provided that the same has been substantially commenced as of the effective date of this chapter and fully constructed and completed within one year of the effective date of this chapter.

§ 114-7. Conflict with other provisions.

This chapter in no way affects the provisions or requirements of any other federal, state or local law or regulations. Where this chapter is in conflict with any other such law or regulation, the more restrictive shall apply.

§ 114-8. Definitions and word usage.

- A. As used in this chapter, the following terms shall have the meanings indicated:

COMMERCIAL USE — An occupation, employment or enterprise that is carried on for profit by the owner, lessee or licensee.

FAMILY — A person or persons related to each other by blood, marriage or adoption (and/or not more than three individuals not so related) living together as a single housekeeping unit.

INDUSTRIAL USE — The manufacturing, wholesaling or warehousing of a product.

LAND USE ACTIVITY — Any construction or other activity which changes the use or appearance of land or a structure or the intensity of use of land or a structure. "Land use activity" shall explicitly include but not be limited to the following: new structures, expansions to existing structures, new uses, changes in or expansions of existing uses, roads, driveways and excavations for the purpose of extracting soil or mineral deposits.

ONE-FAMILY DWELLING — A complete self-contained residential unit for permanent habitation by one family only and containing one or more rooms and facilities for living, including cooking, sleeping and sanitary needs.

SHORELINE — The mean high-water mark of any lake, pond, river or permanent stream.

STRUCTURE — Any object constructed, installed or placed on land to facilitate land use and development or subdivision of land, such as buildings, sheds, signs, tanks and any fixtures, additions and alterations thereto.

STRUCTURE, ACCESSORY — Any structure designed to accommodate an accessory use but detached from the principle structure, such as a freestanding garage for vehicles accessory to the principle use, a storage shed, garden hose or similar facility.

TWO-FAMILY DWELLING — Two complete but separate, self-contained residential units each intended for permanent habitation by one family or in a single structure having a common wall roof, wall or ceiling and connecting separate rooms and facilities for living, including cooking, sleeping and sanitary needs.

- B. Any term used in this chapter which is not defined here and above shall carry its customary meaning unless the context otherwise dictates.

ARTICLE III
Site Plan Review

§ 114-9. Approval required; compliance. [Amended 8-11-1994 by L.L. No. 1-1994]

Prior to undertaking any new land use activity, except for a one- or two-family dwelling and the other uses specifically excepted in § 114-5 of this chapter, a site plan approval by the Planning Board is required. Applicants for site plan approval should follow the recommended procedures related to the sketch plan conference as hereinafter set forth. Applicants must comply with all other procedures and requirements of this chapter.

§ 114-10. Sketch plan.

A sketch plan conference shall be held between the Planning Board and the applicant prior to the preparation and submission of a formal site plan. The intent of such a conference is to enable the applicant to inform the Planning Board of his proposal prior to the preparation of a detailed site plan and for the Planning Board to review the basic site design concept, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. In order to accomplish these objectives, the applicant shall provide the following:

- A. A statement and rough sketch showing the locations and dimensions of principle and accessory structures, parking areas, access signs (with descriptions), existing and proposed vegetation and other planned features and anticipated changes in the existing topography and natural features.
- B. An area map showing the parcel under consideration for site plan review and all properties, subdivisions, streets, rights-of-way, easements and other pertinent features within 200 feet of the boundaries of the parcel.

- C. A topographic or contour map of adequate scale and detail to show site topography.

§ 114-11. Application requirements.

- A. An application for site plan approval shall be made, in writing, to the Chairman of the Planning Board and shall be accompanied by information contained on the following checklist. Where the sketch plan conference was held, the accompanying information shall be drawn from the following checklist as determined necessary by the Planning Board at said sketch plan conference.
- B. Site plan checklist.
- (1) Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
 - (2) North arrow, scale and date.
 - (3) Boundaries of the property plotted to scale.
 - (4) Existing buildings.
 - (5) Grading and drainage plan, showing existing and proposed contours, rock outcrops, depth to bedrock, soil characteristics and watercourses, if applicable.
 - (6) Location, design, type of construction, proposed use and exterior dimensions of all buildings.
 - (7) Location, design and type of construction of all parking and truck loading areas, showing access and egress.
 - (8) Provisions for pedestrian access.
 - (9) Location of outdoor storage, if any.

- (10) Location, design and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences.
- (11) Description of the method of sewage disposal and location, design and construction materials of such facilities.
- (12) Description of the method of securing public water and location, design and construction materials of such facilities.
- (13) Location of fire and other emergency zones, including the location of fire hydrants.
- (14) Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy.
- (15) Location, size and design and type of construction of all proposed signs.
- (16) Location and proposed development of all buffer areas, including existing vegetative cover.
- (17) Location and design of outdoor lighting facilities.
- (18) Identification of the location and the amount of building area proposed for retail sales or similar commercial activity.
- (19) General landscaping plan and planting schedule.
- (20) An estimated project construction schedule.
- (21) Record of application for and status of all necessary permits from all other governmental bodies.
- (22) Identification of any permits from other governmental bodies required for the project's execution.

- (23) Other elements integral to the proposed development as may be considered necessary in the particular case by the Planning Board.

§ 114-12. Fees. [Amended 8-11-1994 by L.L. No. 1-1994]

An application for site plan review shall be accompanied by a fee as set from time to time by resolution of the Town Board.¹

§ 114-13. Reimbursable costs.

Costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan shall be charged to the applicant, not to exceed \$10,000.

ARTICLE IV
Review Standards

§ 114-14. General standards and considerations.

The Planning Board's review of the site plan shall include, as appropriate, but not be limited to the following general considerations:

- A. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
- B. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
- C. Location, arrangement, appearance and sufficiency of off-street parking and loading.

1. **Editor's Note: The current fee schedule is on file in the Town Clerk's office.**

- D. Adequacy and arrangement of pedestrian traffic access and circulation walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
- E. Adequacy of stormwater and drainage facilities.
- F. Adequacy of water supply and sewage disposal facilities.
- G. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
- H. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
- I. Special attention to the adequacy and the impact of structures, roadway and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- J. Overall impact on the neighborhood, including compatibility of design considerations.

§ 114-15. Specific standards and considerations.

The following specific standards shall apply in conjunction with the subject uses or in the designated areas:

- A. All construction on any shoreline lot shall be carried out in such a manner as to minimize interference with the natural course of such waterway, to avoid erosion of the shoreline, to minimize increased runoff of groundwater and surface water into the waterway, to remove only that vegetation which is necessary to the accomplishment of the project and to generally maintain the existing aesthetic and ecological character of the shoreline.
- B. No on-site sewage tile field or seepage pit shall be located within 100 feet of any shoreline, and no septic or other holding tank shall be located within 50 feet of any

shoreline, as measured from the normal high-water mark of the water body.

- C. Any boat pump-out or other connection to provide for the accommodation of sanitary wastes shall be connected to an adequate disposal system.
- D. Any marina, boat service facility or any storage of petroleum products within 100 feet, or reasonable setback as determined necessary by the Planning Board, of the shoreline shall include adequate provisions for ensuring that any leak, rupture or spill will be contained and not be introduced into or affect the adjacent waterway. In particular, a raised earthen or paved berm or dike shall be constructed in such a manner so as to avoid adequate protection.
- E. Any paved or otherwise improved parking, loading or service area within 100 feet of any shoreline shall be designed and constructed so as to minimize surface runoff and the entrance of any chemical pollutants or earthen siltation into the waterway.

ARTICLE V

Public Hearing and Planning Board Decision

§ 114-16. Public hearing.

The Planning Board may conduct a public hearing on the site plan if considered desirable by a majority of its members. Such hearing shall be held within 45 days of the receipt of the application for the site plan review and shall be advertised in the town's official newspaper or, if there is none, in a newspaper of general circulation in the town at least five days before the public hearing.

§ 114-17. Planning Board decision.

Within 45 days of receipt of the application for site plan approval or if a public hearing is held within 45 days of public hearing, the Planning Board shall render a decision. In its decision, the Planning Board may approve, approve with modification or disapprove the site plan. The time period in which the Planning Board must render its decision can be extended by mutual consent of the applicant and the Planning Board.

- A. Approval. Upon approval of the site plan, the payment by the applicant of all fees and reimbursable costs due the town, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file it and a written statement of approval with the Town Clerk. A copy of the written statement of approval shall be mailed to the applicant by restrictive certified mail, return receipt requested.
- B. Approval with modifications. The Planning Board may conditionally approve the final site plan. A copy of the written statement containing the modifications required by the conditional approval will be mailed to the applicant by certified mail, return receipt requested. After adequate demonstration to the Planning Board that all conditions have been met and payment by the applicant of all fees and reimbursable costs due to the town, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file it and a written statement of approval with the Town Clerk. A copy of the written statement of approval shall be mailed to the applicant by restrictive certified mail, return receipt requested.
- C. Disapproval. Upon disapproval of the site plan, the decision of the Planning Board shall be filed with the Town Clerk and a copy thereof mailed to the applicant by restrictive certified mail, return receipt requested, along with the Planning Board's reasons for disapproval. This disapproval shall specifically state the reasons for denial based upon Article III and Article IV of this chapter.

ARTICLE VI

Appeals**§ 114-18. Appeal procedure. [Amended 6-24-1997 by L.L. No. 3-1997]**

Any person aggrieved by any decision of the Planning Board or any officer of the Town may apply to the Board of Appeals for a review of the decision within 60 days after that decision is filed in the office of the Town Clerk. Any party who is still aggrieved by any decision of the Board of Appeals may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceeding shall be instituted pursuant to the terms of § 267-c of the Town Law.

ARTICLE VII

Miscellaneous Provisions**§ 114-19. Enforcement officer.**

The Town Board may appoint an enforcement officer to carry out the duties assigned by this chapter or by any additional regulations adopted pursuant to § 114-20 hereof. If appointed, the enforcement officer shall be responsible for the overall inspection of site improvements, including coordination with the Planning Board and other officials and agencies as appropriate.

§ 114-20. Additional rules and regulations.

The Planning Board may, after a public hearing, adopt such further rules and regulations as it deems reasonably necessary to carry out the provisions of this chapter.

§ 114-21. Amendments.

- A. The Town Board may on it's own motion, on petition or on recommendation of the Planning Board, after public notice

and hearing, amend this chapter pursuant to all applicable laws. [**Amended 8-11-1994 by L.L. No. 1-1994**]

- B. All proposed amendments originating by petition or by motion of the Town Board shall be referred to the Planning Board for a report and recommendation thereof. The Planning Board shall submit its report within 30 days after receiving such referral. Failure of the Planning Board to report within the required time shall be deemed to constitute a recommendation for approval of the proposed amendment.

§ 114-22. Integration of procedures.

Whenever the circumstances of proposed development require compliance with this chapter and with any other local law, ordinance or requirement of the town, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this chapter with the procedural and submission requirements for such other compliance.

§ 114-23. Penalties for offenses. [Amended 8-11-1994 by L.L. No. 1-1994]

Any person, corporation, partnership, association or other legal entity who shall violate any of the provisions of this chapter or any condition imposed by a permit pursuant hereto shall be guilty of a misdemeanor and shall be subject to a maximum fine of \$1,000 or imprisonment for not more than one year, or both. Every such person or entity shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue.

Chapter 116

SNOWMOBILES AND ALL-TERRAIN VEHICLES

§ 116-1. **Legislative intent.**

§ 116-2. **Definitions.**

§ 116-3. **Operation in parks and other public lands.**

[HISTORY: Adopted by the Town Board of the Town of Palermo 8-22-2000 by L.L. No. 2-2000. Amendments noted where applicable.]

GENERAL REFERENCES

Parks and recreation areas — See Ch. 102.

Vehicles and traffic — See Ch. 140.

§ 116-1. **Legislative intent.**

The purpose of this chapter is to protect the public health, welfare and safety by prohibiting the operation of snowmobiles and all-terrain vehicles on public lands in the Town of Palermo, which will promote the safe and proper use of public lands and minimize detrimental effects on the environment.

§ 116-2. **Definitions.**

The terms, words and phrases used in this chapter shall have the same meaning as such terms, words and phrases as defined in the New York State Parks, Recreation and Historical Preservation Law and the New York State Vehicle and Traffic Law.

ALL-TERRAIN VEHICLE (ATV) — Any self-propelled vehicle which is manufactured for sale for operation primarily on off-highway trails or off-highway competitions and only

incidentally operated on public highways, providing that such vehicle does not exceed 60 inches in width or 800 pounds dry weight.

PUBLIC LANDS — Any property located within the Town of Palermo owned or leased by the Town of Palermo owned by the United States of America, the State of New York or one of its political subdivisions.

SNOWMOBILE — Any self-propelled vehicle designed for travel on snow and ice, steered by skis or runners and supported in whole or in part by one or more skis, belts or cleats.

TOWN — The Town of Palermo.

§ 116-3. Operation in parks and other public lands.

- A. The use and operation of snowmobiles and all-terrain vehicles is prohibited on any public lands in the Town of Palermo. A violation of this section shall be punishable by a fine of \$100 for the first offense and \$200 for each subsequent offense.
- B. Notwithstanding, the prohibition set forth in Subsection A, the use and operation of snowmobiles shall be permitted on established marked trails on public lands within the Town of Palermo.
- C. Snowmobiling within public lands shall be restricted to said marked trails, and all other applicable statutes and regulations shall apply.
- D. The use of all other motorized vehicles, except snowmobiles, shall be prohibited from operation on established and designated snowmobile trails within the public lands of the Town of Palermo.

Chapter 118

SOLID WASTE

ARTICLE I
Collection and Recycling

GENERAL REFERENCES

Junkyards and junk dealers — See Ch. 85.

ARTICLE I
Collection and Recycling

**[Oswego County solid waste and recycling regulations
are the controlling standards in the Town of Palermo.]**

Chapter 125

SUBDIVISION OF LAND

ARTICLE I Authority; Title

§ 125-1. Statutory authority.

§ 125-2. Title.

ARTICLE II Declaration of Policy

§ 125-3. Policy; objectives.

ARTICLE III Terminology

§ 125-4. Word usage.

§ 125-5. Definitions.

ARTICLE IV Procedure

§ 125-6. Proposal approval.

§ 125-7. Preapplication review, classification and minor subdivision plat.

§ 125-8. Major subdivision preliminary layout.

§ 125-9. Final plat.

§ 125-10. Filing.

§ 125-11. Building permits.

§ 125-12. Certificates of occupancy.

PALERMO CODE

ARTICLE V

Required Plats, Documents, Bonds, Improvements and Utilities

- § 125-13. **Submission of plats and documents; compliance required.**
- § 125-14. **General requirements for conditional and final approval.**
- § 125-15. **Preapplication documents.**
- § 125-16. **Plats and documents for conditional approval.**
- § 125-17. **Plats and documents for final approval.**
- § 125-18. **Performance and assurance bonds.**
- § 125-19. **Public improvements.**
- § 125-20. **Public utilities.**

ARTICLE VI

Design Standards

- § 125-21. **General requirements.**
- § 125-22. **Parks, playgrounds and public open spaces.**
- § 125-23. **Streets.**
- § 125-24. **Pedestrianways.**
- § 125-25. **Lots and blocks.**
- § 125-26. **Public improvements and utilities.**

ARTICLE VII

Special Conditions

- § 125-27. **Variances.**
- § 125-28. **Modifications.**
- § 125-29. **Waivers.**

- § 125-30. **Time extensions.**
- § 125-31. **Expiration.**
- § 125-32. **Default.**
- § 125-33. **Penalties for offenses.**

ARTICLE VIII
Signing; Amendments; Filing

- § 125-34. **Signing of plats.**
- § 125-35. **Amendments.**
- § 125-36. **Filing of plans; validity.**

ARTICLE IX
Appeals From Planning Board

- § 125-37. **Appeals from decisions of Planning Board.**

[HISTORY: Adopted by the Town Board of the Town of Palermo 2-15-1979 by L.L. No. 1-1979. Amendments noted where applicable.]

GENERAL REFERENCES

- Board of Appeals — See Ch. 7.
- Highway specifications — See Ch. 79.
- Site plan review — See Ch. 114.

ARTICLE I
Authority; Title

- § 125-1. **Statutory authority.**

By authority of a resolution adopted by the Town Board at a meeting held on February 15, 1979, pursuant to the provisions of § 276 of the Town Law, the Planning Board of the Town of

Palermo has the power and authority to approve, modify and disapprove plats for subdivision within the Town of Palermo.

§ 125-2. Title.

These regulations shall be known and may be cited as "Local Law No. 1-1979, the Subdivision Law."

**ARTICLE II
Declaration of Policy**

§ 125-3. Policy; objectives.

It is declared to be the policy of the Town of Palermo Planning Board to consider land subdivision plats as part of the plan for the orderly, efficient and economical development of the town. This shall be interpreted to include the following objectives which shall guide the Planning Board's decisions:

- A. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace.
- B. Proper provision shall be made for water supply, drainage, sewerage and other needed improvements and utilities.
- C. Proposed streets shall compose a convenient system conforming to the Official Map and Development Plan.
- D. Streets shall be of such width, grade and location as to accommodate present and prospective traffic.
- E. All development shall facilitate adequate fire protection and provide access for fire-fighting equipment.

- F. Open space for parks and playgrounds of suitable location, size and character shall be provided wherever appropriate.
- G. In case any of these regulations shall conflict or be inconsistent with any provision of the Town Law, the relevant provisions of the Town Law shall apply.

ARTICLE III Terminology

§ 125-4. Word usage.

- A. Except where specifically defined herein, all words used in these regulations shall carry their customary meanings. Words used in the present tense shall include the future. Words used in the singular number shall include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary.
- B. The word "shall" is always mandatory. The word "may" is permissive. "Building" or "structure" includes any part thereof. A "building" includes all other structures of every description except fences and walls, regardless of dissimilarity to conventional building forms. The word "lot" includes the word "plot" or "parcel." The word "person" includes a corporation as well as an individual.
- C. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" and "occupied for."

§ 125-5. Definitions.

For the purpose of these regulations, certain words used herein are defined as follows:

APPEALS BOARD — The Appeals Board as established by the Town Board for the Town of Palermo. [Added 6-24-1997 by L.L. No. 4-1997]

AREA VARIANCE — The authorization by the Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of this chapter.

[Added 6-24-1997 by L.L. No. 4-1997]

ARTERIAL STREET — A street which serves or is designed to be used primarily for fast or heavy traffic.

BOARD or PLANNING BOARD — The Planning Board of the Town of Palermo.

COLLECTOR STREET — A major street which carries traffic from minor streets to the major system of arterial streets, including the principal entrance streets of a residential development and streets for circulation within such a development. **[Amended 8-11-1994 by L.L. No. 1-1994]**

CUL-DE-SAC STREET — A street with only one means of vehicular ingress and egress and with a turnaround at its terminus.

CURB — A low barrier usually along the pavement line of a street, road or highway controlling surface drainage and separating vehicular areas from pedestrian and/or landscaped areas.

EASEMENT — An acquired right of use on the property of another.

ENGINEER or TOWN ENGINEER — The duly designated engineer of the Town of Palermo or, in lieu of such an official, the Town Superintendent of Highways, the Code Enforcement Officer or the planning consultant or engineer employed by or assigned to the Planning Board. **[Amended 8-11-1994 by L.L. No. 1-1994]**

MARGINAL ACCESS STREET — A minor street which is parallel to and adjacent to an arterial street and which provides access to abutting properties and protection from through traffic.

MASTER PLAN or DEVELOPMENT PLAN — A comprehensive plan prepared by the Planning Board which indicates the general locations recommended for the various functional classes of public works, places and structures and for the general physical development of the Town of Palermo and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

MINOR STREET — A street intended to serve primarily as access to abutting properties.

OFFICIAL DATE OF APPLICATION — The date when a subdivision, plat or preliminary layout shall be considered submitted to the Planning Board, as provided in § 276 of the Town Law, hereby defined to be the date of the meeting of the Planning Board at which all required surveys, plans and data described in Article IV are submitted.

OFFICIAL MAP — A map established by the Town Board under § 270 of the Town Law showing streets, highways and parks theretofore laid out, adopted and established by law and any amendments thereto adopted by the Town Board or additions thereto resulting from approval of subdivision plats by the Planning Board and the subsequent filing of such approved plats.

PLAT — The final map, drawing or chart on which the subdivider's plan of subdivision is presented to the Planning Board for approval, and which, if approved, will be submitted to the County Clerk for recording.

PRELIMINARY LAYOUT — A preliminary drawing showing the proposed layout of a subdivision which is submitted to the Planning Board for its consideration and conditional approval.

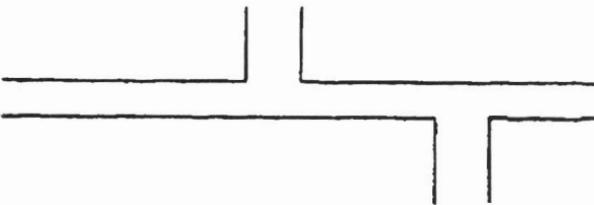
[Amended 8-11-1994 by L.L. No. 1-1994]

ROAD FRONTAGE — Access to a public road or a private road, with a minimum right-of-way of 66 feet in width, with access to a public road. **[Added 9-25-1990 by L.L. No. 2-1990]**

SKETCH PLAN — A freehand sketch made on a topographic survey map showing the layout of streets, lots and other features of a proposed subdivision in relation to existing conditions.

STREET — A way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or however otherwise designated.

STREET JOG —



STREET PAVEMENT — The wearing or exposed surface of the roadway used by vehicular traffic.

STREET WIDTH — The width of the right-of-way or the distance between property lines, on opposite sides of a street.

SUBDIVIDER — Any person, firm, corporation, partnership or association which shall lay out, for the purpose of development and/or sale, any subdivision, as defined herein, either for himself, itself or for others.

SUBDIVISION — The division of any parcel of land into two or more lots, plots, sites or other division of land for the purpose, whether immediate or future, of transfer of ownership or building development. Such division shall include resubdivision of plats already filed in the office of the County Clerk if such plats are entirely or partially undeveloped.

A. **MINOR SUBDIVISION** — Any subdivision containing not more than four lots, each of at least the minimum size as permitted by the town's law pertaining to lot size, each

fronting on an existing public street, not involving any new street or road or the extension of municipal facilities, not adversely affecting the development of the remainder of the parcel or adjoining properties and not in conflict with any provision or portion of the Master Plan. Subsequent subdivision shall be subject to major subdivision regulations. **[Amended 8-11-1994 by L.L. No. 1-1994]**

- B. **MAJOR SUBDIVISION** — Any subdivision not classified as a minor subdivision.

USE VARIANCE — The authorization by the Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the application of this chapter. **[Added 6-24-1997 by L.L. No. 4-1997]**

ARTICLE IV Procedure

§ 125-6. Proposal approval.

Whenever any subdivision of land is proposed, before any contract for the sale of any part thereof and before any permit for the erection of a building in such proposed subdivision is granted, the subdividing owner or his authorized agent shall apply for and secure approval of such proposal in accordance with the following procedure, which includes basically three steps:

- A. Preapplication review, classification and minor subdivision plat.
- B. Preliminary layout.
- C. Final plat.

§ 125-7. Preapplication review, classification and minor subdivision plat.

- A. Prior to filing an application or before preparing a preliminary layout, the subdivider shall submit to the Planning Board a sketch plan of the proposed subdivision, together with data concerning the area including the information specified in § 125-15, in order to discuss the appropriateness of the proposed layout, the suitability of the land for development, the general requirements for improvements and to determine the classification (minor or major) of the subdivision.
- B. The Planning Board shall inform the subdivider, within 45 days after submission, whether his sketch plans and data, as submitted or as modified, do or do not meet the objectives and requirements of these regulations. If said plans and data do not meet the objectives and requirements, the Board shall express its reasons therefor.
- C. The preapplication review does not require formal application to the Planning Board or payment of a fee.
- D. If the subdivision is classified by the Planning Board as a minor subdivision, a notation to that effect will be made on the sketch plan.
- E. Five copies of a plat shall then be submitted to the Planning Board within six months of classification of the sketch plan. If the minor subdivision comes under the provisions of § 125-9B(5), the Planning Board shall take appropriate action in accordance with § 239-k of the General Municipal Law. The minor subdivision plat shall show the following information:
 - (1) A location map showing the relationship of the proposed subdivision to the street system serving the area.
 - (2) Proposed subdivision name, date, North point, map scale and name and address of owner of record.

- F. If the subdivision is classified as a major subdivision by the Planning Board, a notation to that effect shall be made on the sketch plat which will be returned to the subdivider for compliance with all the other applicable sections of these regulations.

§ 125-8. Major subdivision preliminary layout.

- A. Upon receiving an informal agreement by the Planning Board regarding the general program and objectives, in accordance with § 125-7, the subdivider shall prepare a preliminary layout, together with improvement plans and other supplementary documents as specified in § 125-16, and follow the standards set forth in Article VI of these regulations. During the preparation of a preliminary plat containing five or more lots, the subdivider should consult the State Health Department, so that the plat presented to the Planning Board will also be acceptable to the State Health Department.
- B. Submission and fees. The submission to the Planning Board for conditional approval of a preliminary layout shall be accompanied by a standard handling fee payable to the Town of Palermo. Fees are not refundable. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- C. Approval. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- (1) The Planning Board shall:
 - (a) Review the preliminary layout and other supplementary documents:
 - [1] To determine their conformity with the Master Plan and with these regulations.
 - [2] To assess their practicability, taking into consideration the requirements of the community and the best use of the land being subdivided.

- [3] To analyze their proposed lot sizes; sewage and water systems; drainage; and arrangement, location, grades and widths of streets.
 - [4] To consider their effect on future development of adjoining lands as yet unsubdivided.
- (b) Discuss with the subdivider any changes deemed advisable.
 - (c) Discuss with the subdivider the kind and extent of all public improvements and lands to be constructed, installed or dedicated by him or, in lieu of improvements, the amount of performance bond required to be posted.
 - (d) Notify the subdivider of any required public improvements which may be waived.
- (2) The Planning Board shall hold a public hearing within 62 days after the receipt of a complete preliminary layout by the Clerk of the Planning Board. Such hearing shall be advertised at least once in a newspaper of general circulation in the town at least five days before such hearing.
 - (3) Within 62 days after the official date of application, the Planning Board shall either approve, with or without modification, or disapprove the preliminary layout and express, in writing, the reason for modification, if any, or disapproval.
 - (4) Within five days of the approval of the preliminary layout, it shall be certified by the Clerk of the Planning Board as having been granted preliminary approval, with the conditions imposed attached thereto. A copy shall be filed in the Clerk's office and a certified copy mailed to the owner.

- (5) Such approval shall automatically expire after six months, unless extended by formal action of the Planning Board, as provided in § 125-29B.
- (6) Approval of a preliminary layout shall not constitute approval of the final plat. Rather, it shall be deemed an expression of approval only to guide the subdivider in the preparation of the final plat which shall be submitted for the approval of the Planning Board and for eventual recording after compliance with the requirements of these regulations and with any conditions specified in the approval.

§ 125-9. Final plat.

A. Submission.

- (1) Following approval of the preliminary layout, the subdivider shall prepare a final plat, together with other supplementary documents, in accordance with § 125-17, and follow standards set forth in Article VI of these regulations. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- (2) The final plat and other supplementary documents shall be filed with the Planning Board within six months after the date of approval of the preliminary layout unless such time limit is extended by formal action of the Planning Board in accordance with § 125-30B. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- (3) Upon receipt of the application and after having found that the application is in full compliance with the regulations, the Planning Board shall sign and return a receipt which shall indicate the official date of application. In case of deficiencies in the application, the Planning Board shall advise the developer of the deficiencies within 14 days subsequent to the date of receipt of the application.

- (4) If the subdivider so desires, the final plat may consist of only that portion of the approved preliminary layout which he proposed to record and develop at one time, provided that such portion conforms to all applicable requirements of these regulations and that the subdivision is being submitted for approval progressively and in contiguous sections satisfactory to the Planning Board.
- (5) Whenever the subdivision as a whole contains five or more building lots, the developer shall submit with the final plat the approval of the State Health Department. This approval must be submitted prior to the scheduling of a public hearing.

B. Approval.

- (1) Before the Planning Board acts on any final plat, it shall hold a public hearing thereon within 62 days after the official date of application, in accordance with § 276 of the Town Law. This hearing shall be advertised at least once in a newspaper of general circulation in the town at least five days before such hearing. Such public hearing is optional if the final plat agrees substantially with the preliminary plat. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- (2) The Planning Board shall approve, by resolution, conditionally approve with or without modification, disapprove or grant final approval of the final plat within 62 days after the date of the public hearing. Failure of the Planning Board to act within the time allotted or within such extended period established by the mutual consent of the subdivider and the Planning Board shall result in the automatic approval of such final plat. Certification of the Town Clerk as to the official date of application and the failure of the Planning Board to hold a public hearing or take action within the forty-five-day period after the date of the public hearing or within

such extended period established by the mutual consent of the subdivider and the Planning Board shall be issued to the subdivider upon demand and shall be sufficient, in lieu of any written notation or endorsement of other evidence, as final approval. **[Amended 8-11-1994 by L.L. No. 1-1994]**

- (3) No plat which is an extension, section or portion of any previously submitted plat shall be approved until and unless all conditions necessary for approval of such previously submitted plat have been satisfied and final approval shall have been granted in accordance with these regulations.
- (4) If the Planning Board disapproves the final plat, reasons for such disapproval shall be so stated upon its records.
- (5) After the establishment of a County Official Map, no subdivision plat shall be approved when such proposed structures or proposed new streets shall have frontage on, access to or be otherwise directly related to any county road, existing or proposed, as shown on the County Official Map, except in accord with § 239-k of the General Municipal Law. The Town Planning Board shall notify the County Planning Board and the County Superintendent of Highways or Commissioner of Public Works of such subdivision, and the County Planning Board shall report to the Town Planning Board within 30 days on its approval or disapproval or on its approval subject to stated conditions. The final plat may be approved by the Town Planning Board subject to stated conditions, notwithstanding such report, by a two-thirds vote of all the members, when the application of such report will act to deprive the owner of the reasonable use of his land. **[Amended 8-11-1994 by L.L. No. 1-1994]**

§ 125-10. Filing.

- A. Within 62 days next following the date of official approval action by the Planning Board or the date of issuance by the Town Clerk of a certificate of nonaction, and after approval by the State Health Department, if applicable, the subdivider shall file the final plat with the County Clerk. Otherwise, such final approval shall expire as provided in § 276 of the Town Law, unless an extension has been granted by the Planning Board under the provisions of § 125-30B. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- B. Five black and white prints of the final plat showing the recording date of the County Clerk thereon shall be submitted to the Planning Board after filing with the County Clerk.
- C. It shall be the duty of the County Clerk, in accordance with § 279 of the Town Law, to notify the Planning Board, in writing, within three days of the filing of any plat approved by the Planning Board, identifying such plat by its title, date of filing and official file number. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- D. No changes, erasures, modifications or revisions other than those requested by the State Health Department or other such agency or to correct metes and bounds shall be made on any subdivision after final approval has been given by the Planning Board and the plat has been duly filed with the County Clerk, unless such plat has first been resubmitted to the Planning Board and such change, erasure, modification or revision has been approved by the Board. Any plat so changed without first being resubmitted to the Planning Board and reapproved shall be considered null and void, and the Board shall institute proceedings to have the plat stricken from the records of the County Clerk.

§ 125-11. Building permits. [Amended 8-11-1994 by L.L. No. 1-1994]

Upon approval of final plat and posting of a bond in accordance with §§ 125-17C, 125-18A and 125-18B of these regulations; or, upon certification of the completion of installation of all required improvements to the satisfaction of the Town Board, and the posting of a bond in accordance with § 125-18B, the subdivider may be issued building permits for the construction of buildings in accordance with the approved final plat and the Town Building Code.¹

§ 125-12. Certificates of occupancy.

- A. Certificates of occupancy shall only be issued upon certification by the Code Enforcement Officer that all required public improvements in a subdivision as shown on the approved final plat have been completed in accordance with town standards. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- B. No certificate of occupancy shall be issued until the grading and respreading of topsoil has been completed in accordance with § 125-21F, unless a bond in an amount sufficient to guarantee the proper grading of the property and the respreading of the topsoil has been posted as per § 125-18C.

ARTICLE V

Required Plats, Documents, Bonds, Improvements and Utilities

§ 125-13. Submission of plats and documents; compliance required.

Any subdivider who proposes a subdivision in the Town of Palermo shall submit plats and documents and comply with the

1. Editor's Note: See Ch. 67, Fire Prevention and Building Construction.

regulations regarding the posting of bonds and the construction of improvements and utilities as provided in this Article.

§ 125-14. General requirements for conditional and final approval.

- A. One original drawing and six black and white prints of all required plans, plats or surveys and six copies of all other supplementary documents and written applications shall be filed with the County Clerk. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- B. All original drawings shall be submitted on sheets of translucent material, suitable for reproduction, 20 inches by 40 inches or 20 inches by 20 inches. Horizontal scales of one inch equals not more than 100 feet and vertical scale of one inch equals not more than 20 feet shall be used. When more than one sheet is required to show the plat within the prescribed scale, an index sheet of the same size shall be submitted showing the entire proposed subdivision, with lot and block numbers clearly legible, at a scale of one inch equals not more than 600 feet. In addition, the outlines of the development shall be accurately shown on a scale of one inch equals 1,200 feet for transposition to the Official Map, if any.

All submissions shall bear the following information: the proposed subdivision name, identifying title, the words "Town of Palermo, Oswego County, New York," the date of submission and survey and the name and address of the record owner or subdivider. Names, addresses, certification and seals of registered engineers or surveyors engaged to prepare drawings, North arrows and graphic scales shall appear.

- D. Space shall be provided on all submission for required endorsements by appropriate agencies.
- E. During the subdivision review process, the Planning Board shall require the subdivider to complete Part 1 of an

Environmental Assessment Form (either a short form or full form, as applicable) and submit the form for Planning Board Consideration under the State Environmental Quality Review Act (SEQRA).² The SEQRA process shall be accomplished concurrently with the subdivision review process in accordance with the procedures and timetables mandated by the law. An appropriate declaration of significance under SEQRA must be made prior to an approval of the final plat. [Added 8-11-1994 by L.L. No. 1-1994]

§ 125-15. Preapplication documents.

- A. The sketch plan may be a sketch made directly on a print of the topographic survey of the proposed subdivision area. It shall show in simple sketch form the relationship between existing physical conditions and the proposed layout of streets, lots and other features and all topographic data required for the preliminary layout or such of these data as the Planning Board considers necessary for its review of the sketch plan.
- B. The location map shall show the relationship of the proposed subdivision to existing community facilities which serve it. It shall include main traffic arteries and general information on surrounding land uses.

General subdivision information shall describe or outline the existing conditions of the site and the proposed development wherever necessary to explain and supplement the sketch plan and location map. This information should include existing data on covenants, land characteristics, available community facilities and utilities and data as to the proposed number of residential lots, business areas, playgrounds, parks and other public areas, protective covenants, utilities and street improvements.

2. Editor's Note: See Art. 8 of the Environmental Conservation Law.

§ 125-16. Plats and documents for conditional approval.

- A. The preliminary layout, in addition to the requirements of § 125-14C and D shall show both the existing condition data and proposed conditions as follows:
- (1) Existing condition data (required):
 - (a) Boundary lines: bearings and distances of lines and total acreage (including entire area to be subdivided and the remainder of the tract owned by the subdivider).
 - (b) Easements: location, width, identification and purpose.
 - (c) Streets on and adjacent to the tract: name, width of right-of-way and location; type, width and elevation of surfacing; any legally established center-line elevations; walks, curbs, gutters, culverts, etc.
 - (d) Utilities (existing or proposed by public agencies or utility companies) on and adjacent to the tract: location of septic tanks; location, direction of flow, size and invert elevation of sanitary sewers, storm sewers, culverts, water mains and gas lines (if water mains and sewers are not on or adjacent to the tract, indicate the direction and distance to and size of nearest ones and invert elevations); location of fire hydrants, utility poles and streetlighting standards.
 - (e) Ground elevations on the tract: for land that slopes less than approximately 2%, show spot elevation at all breaks in grade, along all drainage channels or swales, and other necessary points. For land that slopes regularly more than 2%, show contours at five-foot intervals, if such information is sufficient for planning purposes, or show contours at two-foot

intervals, if necessary because of irregularly sloped land or need for more detailed data for preparing plans and construction drawings.

- (f) Other conditions on the tract: watercourses, floodplains, rock outcrops, wooded areas, isolated preservable trees, buildings and structures and other significant features.
 - (g) Other conditions on adjacent land: approximate direction and gradient of ground slope, including any embankments or retaining walls, character and location of buildings, power lines, towers and other nearby nonresidential land uses or public open spaces.
- (2) Existing conditions data (at discretion of Planning Board):
- (a) Subsurface conditions on the tract: location and results of tests made to ascertain subsurface soil, rock and groundwater conditions; depth to groundwater, unless test pits are dry at a depth of five feet; location and results of soil percolation tests if individual sewage disposal systems are proposed.
 - (b) Photographs: camera location, directions of views and key numbers.
- (3) Proposed site improvements:
- (a) Streets: names, right-of-way and roadway widths, grades and profiles.
 - (b) Other rights-of-way or easements: location, width and purpose.
 - (c) Location of utilities (if not shown on other exhibits).

- (d) Lot lines, lot areas, lot numbers and block numbers.
 - (e) Sites, if any, to be reserved or dedicated for parks, playgrounds or other public uses.
 - (f) Sites, if any, for multifamily dwellings, shopping centers, churches, industry or other nonpublic uses, exclusive of single-family dwellings.
 - (g) Minimum building setback lines.
 - (h) Site data, including number of residential lots, minimum lot size, park acreage, etc.
 - (i) Approximate location, size, grades and profiles of all proposed water lines and sewer lines. Indicate connections with existing lines, locations of valves, hydrants, manholes, and drop inlets; if individual sewage disposal systems are proposed, the location of septic tanks and leaching fields or seepage pits shall be shown.
 - (j) Approximate grading plan if natural contours are to be changed more than two feet.
 - (k) Location and species of new street trees.
- B. A vicinity map, drawn at a scale of one inch equals not more than 600 feet, showing the relation of the proposed subdivision to the adjacent properties and to the general surrounding area, shall indicate:
- (1) All existing adjacent parcels of land, together with the names of the record owners, platted and unplatted; namely, those directly abutting or directly across any and all streets adjoining the proposed subdivision. Platted land shall be referred to by name, recording date and subdivision number.

- (2) Highways or other major improvements planned by public authorities for future construction on or near the tract.
 - (3) The boundaries and designations of zoning districts affecting the tract.
 - (4) An outline of the platted area, together with its street system. If the preliminary layout submitted covers only a part of the subdivider's entire holding, an indication of the future probable street and drainage system of the remaining portion of the tract shall be shown.
- C. Deed description and survey map of tract boundaries made and certified by a licensed land surveyor.
- D. Other preliminary plans may be required by the Planning Board, including the following:
- (1) Street profiles showing existing surface and proposed street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision; and
 - (2) Typical cross section of the proposed grading, roadway and sidewalk, type and depth of surfacing and subbase and location of streetlighting fixtures, street signs and street trees.

§ 125-17. Plats and documents for final approval.

- A. The final plat, in addition to the requirements of § 125-14C, shall show the following:
- (1) Location, names and widths of existing streets, highways and easements, building lines, parks and other public properties abutting the site.
 - (2) Tract boundary lines, street right-of-way lines, easement and other right-of-way lines and property

lines of residential lots and other sites. Accurate dimensions, bearings, deflection angles and radii and arcs of all curves shall be shown.

- (3) Name and right-of-way width of each street or other right-of-way.
- (4) Location to identify each lot or site; lot areas in square feet.
- (5) Location, dimensions and purpose of easements.
- (6) Accurate outline and designation of purpose of all areas to be dedicated or reserved for public use for which deeds of cession are included and any other spaces which are not to be dedicated.
- (7) Block, lot and section numbers.
- (8) Minimum building setback line on all lots and other sites and outline of proposed buildings.
- (9) Names of record owners of adjoining unplatted land.
- (10) Reference to recorded subdivision plats of adjoining platted land by record name, date and number.
- (11) Certification by surveyor or engineer certifying to accuracy of survey and plat.
- (12) Certification of title showing that applicant is the owner.
- (13) Statement by owner dedicating streets, right-of-way, sites for public use and easements for public utilities.
- (14) Plans and profiles showing the exact location, size, type and invert elevations of existing and proposed water mains, sanitary sewers and stormwater drains; profiles of all utility lines at points of interference; and the location of fire hydrants and all gas or other underground utilities or structures.

- (15) The location and type of the following improvements: street paving, sidewalks, curbs and private sewage disposal systems.
 - (16) Grading plan showing present and proposed contours at two-foot intervals.
 - (17) Sufficient data acceptable to the Town Engineer to determine readily the location, bearing and length of every street line, lot line and boundary line in order to reproduce such lines upon the ground. Where practicable, these should be referenced to monuments, included in the state system of plane coordinates and in any event should be tied to reference points previously established by public authority.
 - (18) For each street, the length of all straight lines and the deflection angle, radius, tangent distances and bearings and length of all curves and arcs shall be given for subsequent inclusion on the Town Official Map.
 - (19) All dimensions shall be shown in feet and decimals of a foot. All angles of the lines of each lot shall be given to the nearest 10 seconds.
- B. Cross sections and profiles of all proposed streets shall be submitted showing grades approved by the Superintendent of Highways; width of roadway; type and depth of surfacing and subbase; location, size and type of curbs; locations and width of sidewalks; and the location and size of utility mains. The profiles shall be drawn to standard scales and elevations along center lines of streets, showing existing and proposed elevations. Where a proposed new street intersects an existing street, the elevations of such existing street shall be shown for 100 feet from each such intersection. All elevations must be referred to established or approved local bench marks. Elevations of all proposed streets shall be shown at five points on a line at right angles to the center line of the street, every 100 feet

throughout the length of such streets, and said elevation points shall be at the center line of the street, each property line and at points 25 feet inside of property lines. Preliminary designs for any bridges or culverts, if required, shall also be included.

- C. A certificate by the Town Clerk shall be submitted certifying that the subdivider has complied with one of the following alternatives:
- (1) That all public improvements have been installed to the satisfaction of the Town Engineer and any other official or body authorized by law to act and in accordance with requirements specified in § 125-19 of these regulations and not specifically waived by the Planning Board as provided in Article VII; or
 - (2) That a performance bond or certified check in compliance with § 277 of the Town Law and § 125-18 of these regulations has been posted in a sufficient amount to assure such completion of all required improvements and is available to the Town of Palermo.
- D. The plat shall be endorsed with the necessary agreements in connection with easements or releases. Offers of cession to the town shall be presented prior to plat approval. Formal offers of cession to the town of all streets and open spaces, not marked on the plat with notation to the effect that such cession will not be offered, shall be filed with the Planning Board prior to plat approval.
- E. The Planning Board may require a written agreement between the subdivider and the Town Board tendering cession of all land included in streets, highways, parks or public open spaces not specifically reserved by the subdivider. Such agreement shall bear the endorsement of the Town Attorney as to its legal sufficiency. For all public open spaces for which deeds of cession are not included, there shall be submitted documents showing the manner in which such areas are to be maintained and the provision

made therefor. The approval by the Planning Board of a subdivision plat shall not be deemed to constitute or imply the acceptance by the town of any street, park, playground or other open space shown on said plat.

- F. Written agreement in accordance with § 125-20A that public utility companies will make necessary service installations where required by the Planning Board.
- G. Such other certificates, affidavits, endorsements or approvals as may be required by the Planning Board shall also be submitted.

§ 125-18. Performance and assurance bonds.

- A. Bonds posted by the subdivider in compliance with § 125-17C shall be in an amount determined by the Planning Board or other appropriate town departments designated by the Planning Board to cover the full cost of required public improvements.
 - (1) Such performance bonds shall be approved by the Town Attorney as to form and manner of execution.
 - (2) Such performance bonds shall run for a term to be fixed by the Planning Board, but in no case for longer than three years. Such term may be extended by the Planning Board with the consent of the parties thereto.
 - (3) If the Planning Board shall decide at any time during the term of the performance bond that the extent of building development which has taken place in the subdivision is not sufficient to warrant all the improvements covered by such performance bond or improvements have been installed in accordance with § 277 of the Town Law and as required by the Planning Board in sufficient amount to warrant reduction in the face amount of such bond, upon approval by the Town Board, the

Planning Board, after due notice and public hearing, may modify its requirements for any or all such improvements, and the face value of such performance bond shall thereupon be reduced by an appropriate amount, so that the new face value will cover the cost in full of the amended list of improvements required by the Planning Board and any security deposited with the bond may be reduced proportionately.

- (4) If the Planning Board or an appropriate Town Officer appointed by it finds, upon inspection, that any of the required improvements have not been constructed in accordance with the plans and conditions approved and specified by the Planning Board, then the subdivider and the bonding company, if any, shall be severally and jointly liable for the costs of completing said improvements originally specified by the Planning Board.
 - (5) Such performance bonds shall be released to the subdivider only upon certification by the Town Board that all required improvements have been satisfactorily completed.
- B. The subdivider shall also post with the Town Clerk a bond in an amount determined by the Planning Board to be adequate to assure the satisfactory condition of all required improvements for a period of one calendar year next following the date of certification of satisfactory completion, installation or construction of such improvements.
- C. A bond in an amount sufficient to guarantee the proper grading of the property and the respreading of the topsoil shall be posted before issuance of a certificate of occupancy.

§ 125-19. Public improvements.

- A. In making determinations regarding the necessity and extent of the installation of such public improvements, the Planning Board shall take into consideration the prospective character and uses in the proposed subdivision, whether dense residential, open residential, business or industrial. The Planning Board shall require the installation of the following public improvements in accordance with Town Law unless it shall specifically waive any such improvements as provided in § 125-29:
- (1) Streets and highways suitably placed, paved and improved with the following:
 - (a) Sidewalks.
 - (b) Curbs.
 - (c) Water mains and fire hydrants.
 - (d) Storm sewers.
 - (e) Sanitary sewers.
 - (f) Street signs.
 - (g) Street trees.
 - (2) Monuments suitably placed and installed.
- B. All improvements as required shall be installed in accordance with standards, specifications and procedures acceptable to the appropriate town departments or as provided in these regulations.
- C. Unless a bond is posted in accordance with § 125-18, all improvements as required shall have been completed, installed or constructed and so certified before approval of final plat shall be granted and before any building permits or certificates of occupancy shall be issued in accordance with §§ 125-11 and 125-12.

§ 125-20. Public utilities.

- A. When public utility facilities are to be installed, the subdivider shall submit to the Planning Board written assurance from each public utility company that such company will make the necessary service installations within reasonable time after acceptance of streets by the town.
- B. The final plat shall show statements by the owner granting the necessary easements or other releases for installation of required public utilities.
- C. The Planning Board shall require underground installation of electrical and telephone lines unless it shall specifically waive any such improvements as provided in § 125-29.

ARTICLE VI
Design Standards

§ 125-21. General requirements.

The subdivider shall observe all design standards for land subdivision as hereinafter provided. These standards shall be considered minimum standards and shall be varied from or waived only as provided in Article VII. Particular attention should be given to matters outlined in § 277 of the Town Law as well as to the specific requirements of these regulations with regard to parks, playgrounds, open spaces, streets, pedestrian ways, lots and blocks and public utilities.

- A. Character of land. Only land that is of such character that it can be used without danger to health or peril from fire, flood or other menace shall be subdivided for building purposes.
- B. Preservation of natural features. The Planning Board may require the preservation of all natural features which add value to residential developments and to the community, such as large trees or groves, watercourses and falls, historic spots and similar irreplaceable assets.

- C. Conformance with the zoning ordinance and Development Plan. Subdivision plats and improvements provided shall conform to the zoning ordinance of the Town of Palermo, if one exists, and shall be in harmony with the Development Plan for the area in which the subdivision is located.
- D. Plats with access through other municipalities. Whenever access to a subdivision is through land of another municipality, the Planning Board may require certificates from authorities having jurisdiction that such access is adequately improved or that a legally adequate performance bond has been duly posted and is sufficient in amount to assure the construction of the necessary road or roads.
- E. Resubdivision. Resubdivision of all or part of the land covered by an existing plat which has been laid out prior to adoption of this chapter shall follow requirements for an original plat, including the vicinity map. Such replat shall show clearly what area or areas have been vacated. It shall also show the file number of all previous plats of the same area with dates of filing.
- F. Preservation of topsoil. No topsoil shall be removed from any land, excepting that in areas over which heavy equipment will be operated the topsoil shall be stripped and piled on the property. When final grades have been established and construction activities have been completed, the entire property shall be suitably graded and recovered with the topsoil to a depth of at least four inches after compaction.
- G. Watercourses. Where a watercourse separates a proposed street from abutting property, provision shall be made for access to all lots by bridges, culverts or other permanent structures of a design approved by town officials. Where a subdivision is traversed by a watercourse, a drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way according to specifications of the Engineer, but in no case less than 25 feet in width.

H. Monuments. Monuments shall be constructed in accordance with the specifications of the town and the requirements of the State Department of Public Works. They shall be set at all corners, at angle points of the boundaries of the original tract, at all street intersections and points of curve and at such intermediate points as shall be required by the Town Superintendent of Highways, the locations thereof shall be shown on the subdivision plat. The corner of all lots shall be marked with either metal markers 3/4 inch in diameter or concrete markers three inches square. Markers shall be at least 24 inches in length and placed into the ground to grade. **[Amended 8-11-1994 by L.L. No. 1-1994]**

§ 125-22. Parks, playgrounds and public open spaces.

- A. Conformance with Development Plan. Where a proposed park, playground or land for other public use is shown on the Development Plan and is located in whole or in part within the proposed subdivision, the Planning Board may request the subdivider to dedicate or reserve such area which lies within the subdivision, provided that the amount of land to be dedicated for park purposes shall not exceed 10% of the total area of the subdivision.
- B. Large-scale developments. In large-scale developments or developments of a size and nature not proposed or anticipated by the Development Plan, the Planning Board may request the subdivider to dedicate or reserve sites for playgrounds and parks whose character, extent and location will be suitable to the needs created by such development, whether or not such sites are shown on the Development Plan. Such areas dedicated for playgrounds and/or parks shall be, in the judgment of the Planning Board, of reasonable size for neighborhood playgrounds or other recreation uses. In general, the Planning Board shall require, and the subdivider shall dedicate, 10% of the gross area of the subdivision for this purpose.
- C. Minimum size.

- (1) In general, the Planning Board will not require the dedication of open public space as required by § 125-22A and § 125-22B if the total acreage of such public land is below one-half (1/2) acre.
- (2) The Planning Board will require the dedication of even smaller parcels if they can be made contiguous to existing public parks; and it reserves the right to waive or modify all dedications if the character and location of such potential parkland cannot be utilized to advantage by the town.
- (3) If the Planning Board determines that a suitable park or parks of adequate size cannot be properly located in any such plat or is otherwise not practical, the Board may require as a condition to approval of any such plat a payment to the town of an amount to be determined by the Town Board, which amount shall be available for use by the town for neighborhood park, playground or recreation purposes, including the acquisition of property.

§ 125-23. Streets.

- A. General objectives. Streets shall be of sufficient width, suitably graded and located and adequately constructed to accommodate the prospective traffic and to afford adequate light and air, to facilitate fire protection and to provide access for fire-fighting, snow removal and other road maintenance equipment, and shall be coordinated so as to compose a convenient system properly related to the proposals shown on the Development Plan. The arrangement of streets shall be such as to cause no undue hardship to adjoining properties, and no property shall be rendered inaccessible from an existing public street or from a proposed street in a subdivision for which a completion bond has been posted.
- B. Arrangement. The arrangement of streets in the subdivision shall provide for the entrance and continuation

of principal streets from adjoining subdivisions and for the extension of principal streets into adjoining land which has not yet been subdivided. Such arrangement shall be required in order to facilitate fire protection, movement of traffic and the construction or extension, currently or as needed in the future, of necessary utilities and public services, such as sewers, water and drainage facilities.

Drains, culverts and ditches. All drains, culverts, ditches and other necessary street drainage improvements required by the Planning Board shall provide adequate drainage of all roads and other public lands, shall conform to the town specifications and shall be acceptable to the Town Superintendent of Highways. The installation of these improvements shall be at the expense of the subdivider. **[Amended 8-11-1994 by L.L. No. 1-1994]**

- D. Arterial streets. Where the proposed subdivision contains or is adjacent to an existing or proposed arterial street, the Planning Board may require service streets, dead-end streets, reverse-frontage lots, screen planting and other treatment to protect adjacent properties, to separate arterial and local traffic and to create lots suitable for the appropriate use of the land between the streets and the right-of-way of the arterial street.
- E. Minor streets. Minor streets shall be laid out in a manner to discourage their use by through traffic. Minor and collector street openings onto an arterial street shall normally be at least 800 feet apart, if possible.
- F. Street connections. Subdivisions containing 50 lots or more shall have at least two connections with existing streets.
- G. Standards for street design. **[Amended 8-11-1994 by L.L. No. 1-1994]**
 - (1) All streets shall be constructed in accordance with Chapter 79, Highway Specifications, and these standards:

Standard	Minor Street	Collector Street
Minimum right-of-way width (feet)	60	66
Minimum pavement width (feet)	20	24
Minimum radius of horizontal curves (feet)	15	400
Minimum length of vertical curves (feet)	100	200
Minimum length of tangents between reverse curves (feet)	100, except where excessive grades may be reduced to reasonable grades by shortening tangent	200
Maximum grade (percent)	10	8
Minimum grade (percent)	.5	.5
Minimum sight distance (feet)	250	500

- (2) The above-noted standards are for general design information only. Chapter 79, Highway Specifications, and its subsequent amendments shall supersede any of the above-noted standards.

H. Widening or realignment of existing streets.

- (1) Where a subdivision borders an existing street and the Official Map or Master Plan indicates plans for realignment or widening of the street that would require reservation of some land of the subdivision, the Planning Board may require that such areas be shown and marked on the plat "Reserved for Street Realignment (or Widening) Purposes."

- (2) Where a development abuts an existing road and future widening may be required, the Planning Board may require that the subdivider dedicate additional right-of-way equal to one-half (1/2) the additional required right-of-way width to meet the requirements of § 125-23G of this chapter if the subdivision abuts one side of the street and the additional required right-of-way width to meet the requirement of § 125-23G if the subdivision abuts both sides of the street.

I. Street intersections.

- (1) Intersection of streets shall be at angles of approximately 90°, but in no case shall two streets intersect at any angle smaller than 60°. To achieve this, an oblique street should be curved when approaching an intersection. Cross (four-cornered) street intersections shall be avoided insofar as possible, except at important traffic intersections. All corners of pavement at street intersections shall be rounded by curves of at least a twenty-five-foot radius.
- (2) On a corner lot in any residence district, no fence, wall, hedge, structure or planting more than 2 1/2 feet in height shall be erected, placed or maintained within the triangular area formed by the intersecting pavement lines or their projections, where corners are rounded, and a straight line joining the pavement lines at points 50 feet distance from their point of intersection. Land at the corners of intersecting streets shall be graded so as not to exceed in elevation, at any point, the surface of an imaginary triangular plane established as follows:
 - (a) The apex shall be at a point 2 1/2 feet above the intersection of the street center lines; the other two corners shall be a vertical distance of 2 1/2 feet above points 100 feet from the apex along the center line of the intersecting streets.

- J. Street jogs. Street jogs with center-line offsets of less than 150 feet shall not be permitted.
- K. Dead-end streets. No dead-end streets without proper turnaround are permitted. The Planning Board may require that a temporary circular turnaround of a minimum of 50 feet in radius be provided on temporary dead-end streets, with the notation on the plat that the land outside the street right-of-way shall revert to abutting property owners whenever the street is continued.
- L. Culs-de-sac. Culs-de-sac shall not exceed 750 feet in length or six times the minimum lot width for the zoning district in which located, whichever is greater, measured from the center line of the continuous street providing the only access to the cul-de-sac, along the center line of the cul-de-sac, to the center of the turnaround or, if the cul-de-sac has several branches, to the center of the farthest turnaround. The cul-de-sac shall terminate in a circular turnaround having a minimum radius of 45 feet for the outside curb at the closed end and minimum right-of-way radius of 60 feet.
- M. Easements in culs-de-sac. Where needed or desirable, the Planning Board may require the reservation of a twenty-foot-wide easement at the end of culs-de-sac to provide for continuation of pedestrian traffic and utilities into the next streets.
- N. Street names.
- (1) All streets shown on the preliminary layout or the subdivision plat shall be named, and all street names shall be substantially different in order not to be confused in sound or spelling with present street names in the Town of Palermo, except that streets which join or align with streets of an abutting subdivision or area shall bear the same name.
 - (2) All proposed street names shall be submitted to the Town Superintendent of Highways not less than 30

days prior to Planning Board action on the final plat. The names will be researched, and the Town Superintendent of Highways shall comment on the acceptability of the proposed street names. **[Added 8-11-1994 by L.L. No. 1-1994]**

- O. Clearing, grading, subbase and paving. All plans shall conform to the town minimum road specifications³ and shall be subject to approval by the Town Engineer.
- P. Street trees. Trees shall be planted on both sides of a street, in locations approved by the Planning Board, except where unnecessary because of existing tree growth or undesirable because of special circumstances. They shall generally:
- (1) Be located near the property line and be spaced approximately 50 feet apart, subject to variations made necessary by driveways and street corners as well as by the species of trees planted.
 - (2) Have a caliper of two inches or larger measured at a height of at least six inches above ground level and shall have a minimum height of 12 feet from the ground level. The species of trees is to be approved by the Planning Board.
- Q. Utility poles. Utility poles shall be set in such a location that they will normally be in back of the curblin and between the curblin and the theoretical sidewalk line. Where overhead utility wires are to exist, trees of a type that will grow to a limited height and not interfere with the wiring shall be used.
- R. Any deviation from any of the above specific engineering and construction requirements can only be made by a written release from the Town Superintendent of Highways and the Town Planning Board or its designees,

3. **Editor's Note: See Ch. 79, Highway Specifications.**

such release to accompany the owner's petition for the acceptance of the proposed town highway.

§ 125-24. Pedestrianways.

- A. Sidewalks on collector streets. All streets designated as collector streets shall have a sidewalk at least four feet wide on both sides of the street, except that, at the discretion of the Planning Board, one sidewalk may be eliminated. All such sidewalks shall be so placed that there will be a distance of at least three feet between the sidewalk and the street paving or 2 1/2 feet between the sidewalk and curb and a distance of at least three feet between the outer edge of the sidewalk and the right-of-way line. Planting of street trees will be permitted in the space between the sidewalk and the right-of-way line only.
- B. Sidewalks on minor streets. All minor streets shall be provided with sidewalks on both sides of the street, except that, at the discretion of the Planning Board, one or both sidewalks may be eliminated. The size and location of such sidewalks shall be the same as for collector streets.

§ 125-25. Lots and blocks.

- A. Lot layout. Lots shall be laid out and arranged to avoid any foreseeable difficulties by reason of unusual topography or other natural conditions and to permit construction of buildings in full compliance with the town's law pertaining to lot size. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- B. Deep lots. Lots shall not be of unreasonable depth, thus encouraging the later creation of a second building lot at the rear, but if such depth is unavoidable, provision should be made wherever possible in the layout of the subdivision for streets which may be added later through resubdivision to serve the development of the rears of deep lots.

- C. Corner lots. Corner lots shall be of sufficient dimensions so that any structure placed thereon shall conform to the building setback line and side yard requirement of the zoning district in which the lot is located and generally should be of increased size.
- D. Doubled-frontage lots. Double-frontage lots shall be avoided, except where necessary to separate residential areas from major traffic arteries or other incompatible use. In such cases, a planting screen easement at least 10 feet wide providing no right-of-access to the lot shall extend along the lot line abutting the traffic artery right-of-way or incompatible use.
- E. Minimum lot size and density. Each lot shall meet the minimum area, width and depth requirements as established by the town's law pertaining to lot size. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- F. Side yard lines. All side yard lines of lots shall be approximately at right angles to straight street lines and radial or nearly radial to curved street lines.
- G. Driveway access. Wherever possible, lots shall be laid out so that driveways have access to a street which is intended to carry the least traffic.
- H. Block design. Each block shall normally be designed to provide two rows of lots, but irregularly shaped blocks indented by cul-de-sac streets and which contain interior parks will be acceptable. Block lengths generally shall not exceed 1,500 feet in length. In long blocks, the Planning Board may require the reservation through the block of a twenty-five-foot-wide easement to accommodate utilities and/or pedestrian traffic.

§ 125-26. Public improvements and utilities.

- A. Placement.

- (1) Underground public improvements and utilities required by the Planning Board shall be placed within an easement agreed on by utility companies or the street right-of-way, in accordance with standards designated by the Town Engineer. Where topography makes such placement impracticable, perpetual unobstructed easements at least 15 feet wide shall be provided for utilities along lot frontages abutting the street lines, with satisfactory access to the street. Wherever possible, easements shall be continuous from block to block and their layout shall be as regular as possible. If placed in the street right-of-way, underground utilities required by the Planning Board shall be placed between the paved roadway and the sidewalk or right-of-way line to simplify location and repair of lines.
 - (2) The subdivider shall install, at his own expense, such additional drainage structures as may be required by the Town Engineer if, in his opinion, such additional structures will further improve the durability and maintenance of rights-of-way.
 - (3) Subject to the discretion of the Town Board, an underground public improvement or utility operated for revenue by the town or special district may be installed by the town in a private street, provided that a public easement of satisfactory size to the Town Board is obtained for such improvement or utility.
- B. Water mains. Where a water main does not exist or is not accessible but the subdivision is located reasonably near a water supply network, the subdivider shall install such main, together with all necessary valves, cutoffs, fire hydrants, pumps, booster tanks, storage tanks, meters and other equipment necessary to make such water system conform to the standards of the town. All such mains and appurtenant items of the water system equipment as may be necessary shall be installed at the expense of the

subdivider in accordance with town specifications and subject to the approval of the Town Engineer and all other authorities having jurisdiction.

C. Sanitary sewer systems.

- (1) Where a public sanitary sewer system is reasonably accessible, the subdivider shall connect into the sewer and provide a sewer connection for each lot.
- (2) Where a public sanitary sewer is not reasonably accessible, but where the plans for the sanitary sewer district in which the subdivision is located have been prepared, the subdivider shall install sewers in conformity with those plans although a connection with an existing main may not be immediately possible. In such cases and until such connection can be made with the sewer system of the district, the subdivider shall provide private separate sewer facilities which shall conform to the requirements of all authorities having jurisdiction.
- (3) Where no existing or planned public sewers exist, lots shall be provided with separate sewer facilities. Such lots shall be of sufficient size, according to the character of the land and the size of the system, to provide adequate leaching or satisfactory performance of the system, in compliance with regulations of the town, the State Health Department and other appropriate authorities.

D. Storm sewers. The subdivider shall install all necessary storm drainage sewers and appurtenant facilities at his expense, in accordance with standards of Chapter 79, Highway Specifications, the Town Superintendent of Highways and all other authorities having jurisdiction. Where an appropriate storm drainage system is reasonably accessible, the subdivider shall make proper connection

thereto. Otherwise, the subdivider shall provide appropriate means and methods for stormwater runoff satisfactory to the Planning Board and all other authorities having jurisdiction. **[Amended 8-11-1994 by L.L. No. 1-1994]**

ARTICLE VII Special Conditions

§ 125-27. Variances. [Amended 6-24-1997 by L.L. No. 4-1997]

Where a proposed site plan contains one or more features which do not comply with these regulations for subdivision of land, application may be made to the Town of Palermo Board of Appeals for an area variance, pursuant to the terms and requirements of § 267-b of the Town Law of the State of New York. This application to the Board of Appeals may be made without the necessity of a decision or determination by the administrative official charged with the enforcement of Chapter 125 of the Code for the Town of Palermo. In granting any variance, the Appeals Board may require such alternative conditions as will secure substantially the same objectives of the standards or regulations so varied from or modified.

§ 125-28. Modifications.

- A. The Planning Board may modify the standards and requirements of these regulations in the case of a plan and program for a neighborhood unit or other large-scale development which, in its judgment, provides adequate public spaces and improvements for the circulation, recreation, light, air and service needs for the tract when fully developed and populated, and which also provides such covenants or other legal provisions to assure conformity with, and achievement of, the general policies and objectives of these regulations.

- B. The Planning Board, after authorization by resolution of the Town Board, may modify applicable provision of the local laws of the Town of Palermo simultaneously with the approval of a subdivision plat. Such action is authorized in accordance with and subject to the provisions of § 278 of the Town Law. **[Amended 8-11-1994 by L.L. No. 1-1994]**

§ 125-29. Waivers.

The Planning Board may waive, subject to appropriate conditions, the requirements of these regulations relative to the provision and design of any or all such public lands and improvements which, in its judgment of the special circumstances of a particular plat or plats, are not requisite to the interests of the public health, safety and general welfare of the town or are not appropriate because of inadequacy or lack of connecting facilities adjacent to or in the proximity of the proposed subdivision.

§ 125-30. Time extensions.

- A. The Planning Board is empowered to establish its own rules or procedure for the granting of time extensions and the revoking of approvals, so long as they are not in conflict with these regulations or the provisions of the Town Law pertaining to subdivision plats.
- B. The Planning Board may extend: **[Amended 8-11-1994 by L.L. No. 1-1994]**
- (1) The six-month approval period as specified in § 125-8C(5).
 - (2) The time for filing and recording such conditionally approved plat in final form if, in its opinion, such extension is warranted by the particular circumstances thereof, for not to exceed two additional periods of 90 days each.

§ 125-31. Expiration.

- A. Approval by the Planning Board of a final plat shall automatically expire after 62 days next following the date of such approval as provided in § 125-10A, unless the subdivider within this period shall have duly filed such plat with the County Clerk or the Planning Board has granted an extension as provided in § 125-30B. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- B. On and after such expiration date, any formal offers of cession submitted by the subdivider shall be deemed to be invalid, void and of no effect.

§ 125-32. Default. [Amended 8-11-1994 by L.L. No. 1-1994]

Performance bonds in default shall subject the subdivider to action in accordance with § 125-18A(3) and (4).

§ 125-33. Penalties for offenses.

- A. If any person transfers or sells or agrees to sell, as owner or agent, any land which forms a part of a subdivision on which, by ordinance, the Planning Board is required to act, without submitting the subdivision for review or before final approval has been obtained, such person shall be subject to a fine not to exceed \$1,000 or be subject to imprisonment for not more than one year, or both. Each parcel, plot or lot so disposed of shall be deemed a separate violation. **[Amended 8-11-1994 by L.L. No. 1-1994]**
- B. In any such action, the transferee, purchaser or grantee shall be entitled to a lien upon the tract of land from which the subdivision was made that remains in the possession of the subdivider or his assigns or successors to secure the return of any deposit made or purchase price paid and also reasonable search fee, survey expense and title closing expense, if any. Any such action must be brought within one year after the date of the recording of the instrument of transfer, sale or conveyance of said land.

ARTICLE VIII
Signing; Amendments; Filing

§ 125-34. Signing of plats.

The Chairman and the Secretary of the Planning Board or, in their absence, the Acting Chairman and the Acting Secretary are hereby authorized to sign approved subdivision plats.

§ 125-35. Amendments.

These regulations or any portion thereof may be amended, supplemented or repealed at any time by the Town Board on its own motion or by petition or by recommendation of the Planning Board. All proposed amendments shall be referred to the Planning Board for study and recommendation, and the Planning Board shall hold a public hearing thereon which has been duly advertised at least 10 days prior to such public hearing in a newspaper of general circulation in the town prior to taking action on any proposed amendment.

§ 125-36. Filing of plans; validity. [Added 8-11-1994 by L.L. No. 1-1994]

All persons from this date forward who wish to subdivide land in the Town of Palermo which by the method it is divided causes it to be classified a subdivision according to this chapter will submit such plans to the Town of Palermo Planning Board first. Any plans, from this date forward (July 18, 1988), filed at the County Clerk's Office without first being approved, and so indicated on them, by the Town of Palermo Planning Board shall be considered invalid.

ARTICLE IX
Appeals From Planning Board
[Added 6-24-1997 by L.L. No. 4-1997]

§ 125-37. Appeals from decisions of Planning Board.

Any subdivider who feels aggrieved by a decision of the Planning Board may appeal the decision of the Planning Board to the Board of Appeals, within 60 days after the decision of the Planning Board is filed in the office of the Town Clerk. Such appeal shall be subject to appropriate sections of the Town Law of the State of New York, including §§ 267-a, 267-b and any amendments thereto.

Chapter 130

TAXATION

**ARTICLE I
Alternative Veterans Exemption**

§ 130-1. Reduction of exemption.

**ARTICLE II
Senior Citizens Exemption**

§ 130-2. Purpose.

§ 130-3. Conditions for granting exemption.

**ARTICLE III
Veterans Exemption**

§ 130-4. Title; authority.

§ 130-5. Purpose; applicability.

§ 130-6. Requirements.

§ 130-7. Effective date.

[HISTORY: Adopted by the Town Board of the Town of Palermo as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Assessor — See Ch. 5.

ARTICLE I
Alternative Veterans Exemption
[Adopted 2-16-1987 by L.L. No. 1-1987]

§ 130-1. Reduction of exemption.

Pursuant to the authority of Subdivision 2(d) of § 458-a of the Real Property Tax Law, the amount of exemption provided by Subdivision 2(a), (b) and (c) is hereby reduced as follows:

- A. Subdivision 2(a): \$6,000.
- B. Subdivision 2(b): \$4,000.
- C. Subdivision 2(c): \$20,000.

ARTICLE II
Senior Citizens Exemption
[Adopted 11-27-1990 by L.L. No. 4-1990]

§ 130-2. Purpose.

The purpose of the Article is to grant partial exemption from real property taxation to the extent of 50% of the assessed valuation of real property which is owned by certain person(s) with limited income, who are 65 years of age or over, meeting the requirements set forth in § 467 of the Real Property Tax Law.

§ 130-3. Conditions for granting exemption.

Real property owned by person(s) 65 years of age or over shall be exempt from town taxes to the extent of 50% of the assessed valuation, subject to the following conditions:

- A. The owner or all owners must file an application for exemption in the Assessor's office by March 1. This application must be renewed annually by refileing an application in the Assessor's office by March 1.

- B. For a fifty-percent reduction, the income of the owner or the combined income of the owners must not exceed the amount most recently adopted by resolution of the Town Board for the 12 consecutive months prior to January 1 of the year of filing. A percentage reduction for income above the amount shall be granted according to the most recently adopted sliding scale. **[Amended 2-23-1993 by L.L. No. 1-1993; 2-28-1995 by L.L. No. 1-1995]**
- C. Title to the property must be vested in the owner or, if more than one, in all owners for at least 24 consecutive months prior to the date that the application is filed.
- D. The property must be exclusively for residential purposes, be occupied in whole or in part by the owners and constitute the legal residence of the owners; provided, however, that in the event that any portion of such property is not so used exclusively for residential purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption provided by this Article.¹
- E. The sliding scale exemption may be changed at any time by a Town Board resolution upon a positive vote of 3/5 of the Town Board. **[Added 2-23-1993 by L.L. No. 1-1993]**

ARTICLE III

Veterans Exemption

[Adopted 1-25-2000 by L.L. No. 1-2000]

§ 130-4. Title; authority.

This article shall be known as "Local Law No. 1 of 2000," a local law known as the "Veteran's Eligible Funds Exemption Law";

1. **Editor's Note: Former Subsection E, regarding Grievance Day 1991, which immediately followed this subsection, was deleted 8-11-1994 by L.L. No. 1-1994.**

And is allowed pursuant to Real Property Tax Law of the State of New York, Chapter 410, Section 1 of the Laws of 1994.²

§ 130-5. Purpose; applicability.

This article is enacted for the purpose of allowing for the provisions of the Real Property Tax Law § 458(5)(a), as amended, relative to veteran's exemption and shall apply to Town real property taxes levied by the Town of Palermo.

§ 130-6. Requirements.

- A. Notwithstanding the limitation on the amount of exemption prescribed in Subdivision One or Two of Real Property Tax Law § 458, if the total assessed value of the real property for which such exemption has been granted increases or decreases as the result of a revaluation or update of assessments, and a material change in level of assessment, as provided in the Real Property Tax Law, is certified for the assessment roll pursuant to the rules of the State Board, the Assessor shall increase or decrease the amount of such exemption by multiplying the amount of such exemption by such change in level of assessment. If the Assessor receives the certification after the completion, verification and filing of the final assessment roll, the Assessor shall certify the amount of exemption as recomputed pursuant to this subsection, and such local Assessor is hereby directed and authorized to enter the recomputed exemption on the roll.
- B. Owners of property who previously received an exemption pursuant to § 458 of the Real Property Tax Law, but opted instead to receive exemption pursuant to § 458-a of the Real Property Tax Law, may, within one year from the adoption of this article, make application to again receive an exemption pursuant to § 458. The Assessor shall recompute all exemptions granted pursuant to this section

2. **Editor's Note: See Real Property Tax Law § 458.**

by multiplying the amount of each such exemption by the cumulative change in level of assessment certified by the State Board measured from the assessment roll immediately preceding the assessment roll on which exemptions were first granted pursuant to § 458-a; provided, however, that if an exemption pursuant to this section was initially granted to a parcel on a later assessment roll, the cumulative change in level factor to be used in recomputing the exemption shall be measured from the assessment roll immediately preceding the assessment roll on which that exemption was initially granted. No refunds or retroactive entitlements shall be granted.

- C. Such adjustments shall be made by the Assessor in the manner provided in § 458, Subdivision 1(3) of the Real Property Tax Law, and, except as provided in § 130-6B herein, no application need be filed by or on behalf of any owner of any eligible property.

§ 130-7. Effective date.

This article shall be applied to an assessment roll prepared on the basis of a taxable status date occurring on or after March 1, 2000.

Chapter 133

TELECOMMUNICATIONS FACILITIES

- § 133-1. Findings and intent.
- § 133-2. Definitions.
- § 133-3. Compliance required; conflict with other laws.
- § 133-4. Approvals required.
- § 133-5. General criteria.
- § 133-6. Application materials and supporting documentation.
- § 133-7. Additional requirements and standards.
- § 133-8. Removal of obsolete/unused facilities.

[HISTORY: Adopted by the Town Board of the Town of Palermo 1-26-1999 by L.L. No. 1-1999. Amendments noted where applicable.]

GENERAL REFERENCES

Board of Appeals — See Ch. 7.

Fire prevention and building construction — See Ch. 67.

Site plan review — See Ch. 114.

§ 133-1. Findings and intent.

The Town of Palermo recognizes the increased demand for wireless communications transmitting facilities and the need for services they provide. Often these facilities require the construction of a communications tower. The intent of this chapter is to regulate telecommunications facilities, as herein defined, in order to achieve the following:

- A. Promote the health, safety, and general welfare of the residents of the Town of Palermo.
- B. Protect the natural features and aesthetic character of the Town of Palermo.
- C. Provide standards for the safe provision of telecommunications facilities consistent with applicable Federal and State regulations.
- D. Protect the Town's interest in properly siting towers in a manner consistent with sound land use planning, while also allowing wireless services providers to meet their technological and service objectives.

§ 133-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY STRUCTURE — An accessory facility or structure serving or being used in conjunction with a telecommunications facility or tower and located on the same lot as a telecommunications facility or tower. Examples of such structures include utility or transmission equipment, storage sheds or cabinets.

ANTENNA — A system of electrical conductors that transmits or receives radio frequency signals. Such signals shall include but not be limited to radio, television, cellular, paging, PCS and microwave communications.

CAMOUFLAGING — The construction of facilities to house or support telecommunications towers so that the towers blend readily with the landscape, neighborhood, and adjacent architectural features. Examples of camouflaging that could be used are: silo and barn, windmill, and simulated tree.

COLLOCATED ANTENNAS — Telecommunications facilities which utilize existing towers, buildings or other structures for

placement of antenna(s) and which do not require construction of a new tower.

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- A. Towers and/or antennas and accessory structures used in connection with the provision of cellular telephone service, personal communications services (PCS), paging services, radio and television broadcast services and similar broadcast services.
- B. The following types of telecommunications facilities are not subject to the provisions of this chapter:
 - (1) Antennas used solely for residential household television and radio purposes.
 - (2) Satellite antennas used solely for residential or household purposes.

TOWER — A structure designed to support antennas. It includes, without limit, freestanding towers, guyed towers, monopoles and similar structures which employ camouflage technology.

- A. **MONOPOLES** — Monopoles range in height from 25 to 125 feet and are wider at the base than at the top. They may support any combination of whip, panel, or dish antennas. Monopoles shall be preferred to lattice towers and guyed towers.
- B. **LATTICE TOWERS** — Lattice towers range from 60 to 200 feet in height. These towers may have three or four support legs and hold a variety of antennas.
- C. **GUYED TOWERS**-- Guyed towers are supported either partially or wholly by guy wires and ground anchors. The towers are 120 to 150 feet in height.

§ 133-3. Compliance required; conflict with other laws.

- A. No telecommunications facility shall hereafter be used, erected, moved, reconstructed, changed or altered except in conformity with these regulations.
- B. No existing structure shall be modified to serve as a transmission tower, communications tower, satellite dish, antenna, pole or other similar use unless in conformity with these regulations.
- C. Where these regulations conflict with other laws and regulations of the Town of Palermo, the more restrictive shall apply.

§ 133-4. Approvals required.

- A. Communications towers in neighborhoods other than residential neighborhoods and land conservation use neighborhoods. New communications towers and accessory facilities/structures shall be permitted in any of the following neighborhoods upon issuance of a special use permit by the Town Planning Board and in conformance with this chapter.

M Industrial Neighborhoods

Q Mining, Quarrying and Land Excavation
Neighborhoods

B General and Highway Business Use Neighborhoods

A Agricultural Neighborhoods

- B. Communications towers prohibited in certain neighborhoods. New communications towers and accessory structures are not permitted in the following neighborhoods:

R Residential Neighborhoods

L-C Land Conservation Neighborhoods

Location preference for higher-intensity use neighborhoods.

- (1) It is preferred by the Town of Palermo that telecommunications facilities and accessory uses be located in a higher-intensity use district or on higher-intensity use property, provided there is a technologically feasible and available location. The preferred locations, from most favorable to least favorable district/property are as follows:
 - (a) Property with an existing structure suitable for collocation.
 - (b) Mining, quarrying and land excavation neighborhoods.
 - (c) Industrial neighborhoods.
 - (d) General and highway business neighborhoods.
 - (e) Agricultural neighborhoods.
- (2) In any neighborhood, telecommunications facilities will be discouraged from locations in close proximity to residential neighborhoods. The Town Planning Board is authorized to review, evaluate and determine the appropriateness of the location of a telecommunications facility in any approved neighborhood, based upon a reasonable evaluation of its impact or effect upon the aesthetic character of the area immediately surrounding the facility site. In the event that the Planning Board determines that the location of the telecommunications facility will irreparably damage the surrounding neighborhood or area, the Board may choose, in its sole discretion, to request that the applicant investigate one or more alternate locations in order to avoid an irreparable damage or effect upon the

adjacent area. In such event, the Board may direct the applicant to investigate facility placement in another use classification area, even if such neighborhood classification is ordinarily deemed to be a less preferred location or site for a telecommunications facility.

D. Collocated antennas.

- (1) Telecommunications facilities comprised of collocated antennas utilizing existing buildings or structures other than towers shall be permitted in any neighborhood upon the Planning Board granting a special use permit and in accordance with the standards set forth in this chapter.
- (2) Collocated antennas on existing towers shall be permitted in any neighborhood upon the granting of a special use permit by the Planning Board, in accordance with the standards set forth in this chapter.

E. Public hearings. All applications for telecommunications facilities submitted to the Planning Board shall be considered at public noticed hearings.

§ 133-5. General criteria.

No special use permit or renewal thereof or modification of a current special use permit relating to a telecommunications facility shall be authorized by the Planning Board unless it finds that such telecommunications facility:

- A. Is necessary to meet current or expected demands for services;
- B. Conforms with all applicable regulations promulgated by the Federal Communications Commission, Federal Aviation Administration, and other federal agencies;
- C. Is considered a public utility in the State of New York;

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- D. Is designed and constructed in a manner which minimizes visual impact to the extent practical;
- E. Complies with all other requirements of this chapter, unless expressly superseded herein;
- F. Is the most appropriate site among those available within the technologically feasible area for the location of a telecommunications facility.

§ 133-6. Application materials and supporting documentation.

- A. All applications for a special use permit shall be by written application on forms provided by the Town of Palermo.
- B. Each applicant for a telecommunications facility shall submit an environmental assessment form (long form) with visual addendum, and an analysis demonstrating that location of the telecommunications facility as proposed is necessary to meet the frequency reuse and spacing needs of the applicant's telecommunications system and to provide adequate service and coverage to the intended area. The Planning Board may require submission of a more detailed visual analysis based on the results of the visual EAF.
- C. Each applicant shall submit a site plan prepared to scale and in sufficient detail and accuracy showing at a minimum:
 - (1) The exact location of the proposed telecommunications facility and/or tower together with any guy wires and anchors, if applicable;
 - (2) The maximum height of the proposed telecommunications facility and/or tower;
 - (3) Detail of tower type (monopole, guyed, freestanding or other);

- (4) The location, type and intensity of any lighting on the tower;
 - (5) Property boundaries and names of adjacent land owners with 500 feet of the parcel on which the tower is located.
 - (6) Proof of the landowners' consent if the applicant does not own the property;
 - (7) The location of all structures on the property and all structures on any adjacent property within 10 feet of the property lines, together with the distance of these structures to the communications tower.
 - (8) The location, nature and extent of any proposed fencing, landscaping and/or screening; and
 - (9) The location and nature of proposed utility easements and access road, if applicable.
- D. The applicant shall in writing identify the location of any additional sites that they are or will be considering or reviewing for telecommunications facilities and/or towers in the Town of Palermo and all adjacent towns, for a period of two years from the date of application, which must be updated annually.
- E. Each applicant shall provide an inventory report as described in the following § 133-7B(1).
- F. All applicants applying for telecommunications facilities agree to reimburse the Town for consultants and/or specialists to assist in the applications.
- G. All applicants must certify that transmission from their telecommunications facility will not interfere with existing signals such as household television and radio, etc.

§ 133-7. Additional requirements and standards.

The following criteria and additional requirements shall apply to each application for a telecommunications facility:

A. Dimensional standards.**(1) Setbacks.**

- (a) All new towers shall be set back from all adjacent property lines a sufficient distance to safeguard the general public and/or adjacent property. In the absence of any evidence supporting a greater or lesser setback distance, a setback of the tower from any adjacent property line equal to the height of the tower plus 50 feet shall be deemed adequate. In no case shall a tower be located closer than 1,000 feet to a residential dwelling located upon any other parcel.
- (b) Accessory structures and guy anchors must comply with the minimum setback requirements of the underlying district.

- (2) All telecommunications facilities shall be located on a single parcel.
- (3) A lot leased or owned for the purpose of construction of a tower as part of a telecommunications facility shall not result in the creation of a nonconforming lot.

B. Collocation.

- (1) The shared use of existing telecommunications facilities shall be preferred to the construction of new facilities. Additionally, where such shared use is unavailable, location of an antenna on preexisting structures shall be considered. Any special permit application, renewal or modification thereof shall include proof that reasonable efforts have been made

to collocated within (share) an existing telecommunications facility or upon an existing structure. Copies of written requests and responses for shared use shall be provided. The application shall also include an adequate inventory report specifying existing telecommunications facility sites and structures exceeding 75% of the height of the proposed tower within the search range of the cell grid. The inventory report shall contain an evaluation of opportunities for shared use as an alternative to new construction.

- (2) The applicant must demonstrate that the proposed telecommunications facility cannot be accommodated on existing telecommunications facilities sites or other structures in the inventory due to one or more of the following reasons:
 - (a) The planned equipment would exceed the structural capacity of existing and approved telecommunications facilities or other structures, considering existing and planned use for those facilities;
 - (b) The planned equipment would cause radio frequency interference with other existing or planned equipment which cannot be reasonably prevented;
 - (c) Existing or approved telecommunications facilities or other structures do not have space on which proposed equipment can be placed so it can function effectively and reasonably;
 - (d) Other technical reasons make it impracticable to place the equipment proposed by the applicant on existing facilities or structures;
 - (e) The property owner or owner of the existing telecommunications facility or other structure refuses to allow such collocation.

- (3) The applicant must examine the feasibility of designing a proposed commercial communications tower to accommodate future demand for commercial broadcasting and reception facilities. The scope of this analysis shall be determined by the Town Planning Board for special use permit approvals. This requirement may be waived, provided that the applicant demonstrates that the provision of future shared usage of the facility is not feasible and an unnecessary burden, based upon:
 - (a) The number of FCC licenses foreseeably available for the area;
 - (b) The kind of tower site and structure proposed;
 - (c) The number of existing and potential licenses without tower spaces/sites;
 - (d) Available spaces on existing and approved towers; and
 - (e) Potential adverse visual impact by a tower designed for shared usage.

C. Lighting and markings.

- (1) Towers shall not be artificially lighted and marked beyond the requirements of the Federal Aviation Administration (FAA).
- (2) Notwithstanding the preceding subsection, an applicant may be compelled to add FAA-style lighting and marking if, in the judgment of the Planning Board, such a requirement would be of direct benefit to public safety.

D. Appearance and buffering.

- (1) The use of any portion of a telecommunications facility for signs, promotional or advertising purposes, including but not limited to company

name, phone numbers, banners, streamers, and balloons, is prohibited.

- (2) The facility shall have the least practical visual effect on the environment, as determined by the Planning Board. Any tower that is not subject to FAA markings shall otherwise:
 - (a) Have a galvanized finish, or shall be painted gray or green below the tree line, as deemed appropriate by the Town Planning Board; or
 - (b) Be disguised or camouflaged to blend in with the surroundings, to the extent that such alteration does not impair the ability of the facility to perform its designed function.
- (3) Accessory structures shall maximize the use of building materials, colors, and textures designed to blend in with the natural surroundings.
- (4) The Town Planning Board shall require that the facility have appropriate vegetative buffering around the fences of the tower base area, accessory structure and the anchor points of guyed towers to buffer their view from neighboring residences, recreation areas, or public roads. Such screening shall include the maximum feasible retention of existing vegetation.

E. Traffic access and safety.

- (1) A gated and locked road turnaround and two parking spaces shall be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. Road construction shall at all times minimize ground disturbance and vegetation cutting and road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

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- (2) All towers and guy anchors, if applicable, shall be enclosed by a fence not less than eight feet in height or otherwise sufficiently secured to protect them from trespassing or vandalism. All such fenced areas shall be screened as provided in Subsection D(4) above.
 - (3) The applicant must comply with all applicable state and federal regulations, including, but not limited to, FAA and FCC regulations, and must submit written evidence of such compliance.
 - (4) The applicant shall in each instance provide a certification from a qualified, licensed engineer, certifying that the tower or telecommunications facility meets structural safety standards.
- F. Height. The applicant shall submit sufficient information to justify the proposed height of a tower as the minimum necessary to achieve its coverage objectives. In no event, however, shall any tower exceed a height of 199 feet above existing adjoining grade level. The applicant must also submit documentation justifying the height of any telecommunications tower and/or antenna. The maximum height of any tower with antenna shall not exceed a height which will require artificial lighting of any kind and nature in accordance with any Town, county, state, and federal laws or regulations without first obtaining an area variance from the Zoning Board of Appeals.

§ 133-8. Removal of obsolete/unused facilities.

- A. The applicant shall agree, in writing, to remove the tower or antennas if the telecommunications facility becomes obsolete or ceases to be used for its intended purpose for six consecutive months. Removal of such obsolete and/or unused towers shall take place after six months of cessation of use. Such agreement shall also include a commitment by the applicant to impose a similar obligation to remove any unused and/or obsolete tower or

antennas upon any person subsequently securing rights to collocate on the tower or telecommunications facility.

B. Bond/Security.

- (1) The applicant shall be required to execute and file with the Town Clerk a bond or other form of security acceptable to the Town Attorney and Comptroller (or the Town's Financial Officer), as to form and manner or execution, in an amount sufficient in the reasonable discretion of the Town, for the faithful performance of the terms and conditions of the permit or approval issued hereunder, for the observation of all Town local laws or ordinances, to cover the maintenance of the tower during its lifetime, and provide for the removal and restoration of the site subsequent to its removal. The amount required shall be determined by the Town Planning Board in its special use permit procedure.
- (2) The amount of the bond or security shall be no less than 150% of the cost of removal of the tower and restoration of the site, and shall be reviewed and adjusted at five-year intervals.
- (3) In the event of a default upon performance of such conditions or any of them, the bond or security shall be forfeited to the Town of Palermo, which shall be entitled to maintain an action thereon. The bond or security shall remain in full force and effect until the removal of transmission tower, telecommunications tower, communications installation, freestanding tower, satellite dish, antenna, pole, accessory facility/structure, and site restoration.

Chapter 138

VANDALISM

- § 138-1. Title.**
- § 138-2. Purpose.**
- § 138-3. Vandalism prohibited.**
- § 138-4. Penalties for offenses.**
- § 138-5. Reward.**

[HISTORY: Adopted by the Town Board of the Town of Palermo 10-24-2000 by L.L. No. 3-2000. Amendments noted where applicable.]

§ 138-1. Title.

This chapter shall be known and may be cited as "A Local Law Prohibiting Vandalism in the Town of Palermo."

§ 138-2. Purpose.

Vandalism has no place in society. The Town of Palermo desires to punish those responsible for the intentional and reckless destruction of property located in the Town, and reward those who assist in bringing vandals to justice.

§ 138-3. Vandalism prohibited.

- A.** It shall be unlawful for a person to vandalize property in the Town of Palermo. Such action shall constitute criminal mischief in the fourth degree as defined by the Penal Law of the State of New York.

- B. A person is guilty of criminal mischief in the fourth degree when, having no right to do so nor any reasonable ground to believe that he has such right, he:
- (1) Intentionally damages property of another person; or
 - (2) Intentionally participates in the destruction of an abandoned building as defined in § 1971-a of the Real Property Actions and Proceedings Law; or
 - (3) Recklessly damages property of another in an amount exceeding \$250; or
 - (4) Intentionally damages any Town property, including therein all Town buildings and Town cemeteries.
- C. Criminal mischief in the fourth degree is a Class A misdemeanor.

§ 138-4. Penalties for offenses.

A person who shall be found guilty of criminal mischief in the fourth degree may be fined up to \$1,000 and/or incarcerated for a period not to exceed one year, or both.

§ 138-5. Reward.

The Town Board is hereby authorized to offer and pay appropriate rewards of not more than \$1,000 each for information which shall lead to the detection, arrest and conviction of a person or persons guilty of violating this chapter.

Chapter 140

VEHICLES AND TRAFFIC

- § 140-1. Winter parking.
- § 140-2. Penalties for offenses.
- § 140-3. Authority to remove vehicles.
- § 140-4. Procedure for removal.
- § 140-5. Costs and lien.

[HISTORY: Adopted by the Town Board of the Town of Palermo 3-28-1983 by L.L. No. 1-1983. Amendments noted where applicable.]

GENERAL REFERENCES

Highway specifications — See Ch. 79.
Notification of defects — See Ch. 96.

§ 140-1. Winter parking.

No motor vehicle or other vehicles of any kind shall be allowed or permitted to park in or on the highway or highway right-of-way situate in the Town of Palermo, Oswego County, New York, from November 1 of each year until April 1 of each year.

§ 140-2. Penalties for offenses. [Amended 8-11-1994 by L.L. No. 1-1994]

Any violation of this chapter shall, for a first conviction thereof, be punished by a fine of not more than \$100 or by imprisonment for not more than 15 days, or by both such fine and imprisonment; for a second conviction within 18 months

thereafter, such person shall be punished by a fine of not more than \$200 or by imprisonment for not more than 45 days, or by both such fine and imprisonment; upon a third and subsequent conviction within 18 months after the first conviction, such person shall be punished by a fine of not more than \$300 or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

§ 140-3. Authority to remove vehicles. [Amended 8-11-1994 by L.L. No. 1-1994]

The Town Constable or Town Superintendent of Highways is hereby authorized to remove or cause the removal of any vehicle left parked or standing on any highway or right-of-way in the Town of Palermo in violation of the provisions of this chapter.

§ 140-4. Procedure for removal.

When any such vehicle is so removed, it shall be transported to a suitable storage space or garage. A record shall be made of the license number of the vehicle and the location at which the vehicle is stored, and the owner thereof shall, with due diligence, be notified of the place where said vehicle is located.

§ 140-5. Costs and lien. [Amended 8-11-1994 by L.L. No. 1-1994]

The cost of removal and towing shall be a charge against the owner of the vehicle. Before the owner or person in charge of such vehicle shall be entitled to remove the same, he shall pay the towing and/or storage charges, furnish evidence of his identity and ownership of the vehicle and give a proper receipt therefor. The owner or keeper of any garage or other storage

space where such vehicle shall be stored shall have a lien upon the same for his towing and storage charges, not to exceed the rates described herein.

Chapter 144

WASTES, MEDICAL, NUCLEAR AND SCAVENGER

- § 144-1. **Title.**
- § 144-2. **Findings.**
- § 144-3. **Purpose.**
- § 144-4. **Supersession of conflicting laws.**
- § 144-5. **Definitions.**
- § 144-6. **License required.**
- § 144-7. **Application for license.**
- § 144-8. **License exemption.**
- § 144-9. **License fees; issuance; availability, term; transferability; revocation.**
- § 144-10. **Regulations.**
- § 144-11. **Special conditions.**
- § 144-12. **Penalties for offenses.**
- § 144-13. **Coordination with state law.**

[**HISTORY:** Adopted by the Town Board of the Town of Palermo 1-23-2001 by L.L. No. 1-2001. Amendments noted where applicable.]

GENERAL REFERENCES

Flood damage prevention — See Ch. 70.
Solid waste — See Ch. 188.

§ 144-1. Title.

This chapter shall be known as the "Local Law Regulating the Discharge, Disposal, Land Application and Storage of Medical, Nuclear and Scavenger Waste in the Town of Palermo, New York."

§ 144-2. Findings.

The Town Board finds that environmental regulations are presently insufficient to satisfactorily control pollution from medical, nuclear and scavenger waste discharge, disposal, land application and storage. Among other factors, the Board finds as follows:

- A. The Town's existing community character may be adversely and unalterably impacted by the location and operation of medical, nuclear, and scavenger waste discharge, disposal, land application and storage facilities within the Town.
- B. Waste disposal activities in the Town of Palermo are increasing to such an extent that health, safety, and quality of life to Town residents may be threatened.
- C. Undesirable aspects of waste disposal include the proliferation on Town highways of waste disposal truck traffic that may be unsightly, noisy, malodorous, dangerous to pedestrians and damaging to roadways.
- D. Property values within the Town of Palermo may decrease with the expansion of medical, nuclear, and scavenger waste disposal activity and the need for fill cover at disposal sites may result in an undesirable proliferation of ponds throughout the vicinity created by mining and removing of fill material.
- E. Threats of contamination to groundwater, nearby creeks, and streams posed by medical, nuclear and scavenger waste disposal, discharge, land application and storage are of serious concern in the Town of Palermo due to the fact

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that many residents rely on private wells rather than municipal water systems. Contamination of any water supply may be very expensive or even impossible to remediate.

- F. Operation of discharge, disposal, land application and storage facilities in the Town of Palermo could unavoidably and adversely affect the Town in a manner that imposes a heavy burden on its citizens which greatly outweighs any slight advantage of having local medical, nuclear, and scavenger waste disposal available and any economic benefit such private business may incur. Moreover, the operation of these facilities is a subject of legitimate public concern to the Town residents, making access to as much accurate and current information about the scope and effect of disposal and land application operations a necessity.
- G. Current federal and state regulations of medical, nuclear and scavenger wastes are insufficient to relieve the foregoing concerns.

§ 144-3. Purpose.

- A. This chapter regulating the discharge, disposal, land application and storage of medical, nuclear, and scavenger waste is adopted pursuant to the Town's police powers under the Municipal Home Rule Law in §§ 130 and 136 of the Town Law for the physical and mental well-being and safety of its citizens and to restrict waste disposal operations within the Town that might otherwise be permitted under federal and state regulations.
- B. By the adoption of this chapter the Town Board of the Town of Palermo, County of Oswego, New York declares its intent in so doing to regulate, control and license the activities of discharge, disposal, land application and storage of medical, nuclear and scavenger wastes. Said Town Board hereby declares that such activities can constitute a hazard to property and persons and a public

nuisance. A clean, wholesome, safe environment is declared to be of importance to the health and safety of the inhabitants of the Town of Palermo and the general welfare of its citizens. The Town of Palermo is a substantially rural and agricultural municipality whose water source is primarily private wells. It is further declared that the discharge, disposal, land application and storage of medical, nuclear and scavenger waste may be a hazard to the health, safety, and welfare of citizens of the Town, necessitating the regulation and restraint thereof.

§ 144-4. Supersession of conflicting laws.

This chapter shall supercede and replace any prior existing ordinances or sections of ordinances that relate to discharge, disposal, land application and storage of medical, nuclear and scavenger waste.

§ 144-5. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

MEDICAL WASTE — Includes the following:

- A. Surgical waste, which consists of materials discarded from surgical procedures involving the treatment of a patient on isolation, other than patients on reverse or protective isolation;
- B. Obstetrical waste, which consists of materials discarded from obstetrical procedures involving the treatment of a patient on isolation;
- C. Pathological waste, which consists of discarded human tissues and anatomical parts which are discarded from surgery, obstetrical procedures, autopsy and laboratory procedures;

- D. Biological waste, which consists of discarded excretions, exudates, secretions, suctioning, and disposable medical supplies which have come in contact with the substances that cannot be discarded directly into a sewer and that emanate from the treatment of a patient on isolation, other than patients on reverse or protective isolation;
- E. Discarded materials soiled with blood emanating from the treatment of a patient on isolation, other than patients on reverse or protective isolation;
- F. A waste being discarded from renal dialysis, including tubing and needles;
- G. Discarded serums and vaccines that have not been autoclaved or returned to the manufacturer or point of origin;
- H. Discarded laboratory waste which has come in contact with pathogenic organisms and which has not been rendered noninfectious by autoclaving or other sterilization techniques;
- I. Animal carcasses exposed to pathogens and research, their bedding and other waste from such animals that is discarded;
- J. Other particles that are being discarded that are potentially infectious and that might cause punctures or cuts, including intravenous tubing with needles attached, that have not been autoclaved or subjected to a similar decontamination technique.

NUCLEAR WASTE — Includes the following:

- A. Low-level and high-level radioactive waste;
- B. Transuranic waste, spent nuclear fuel or the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content and any waste the U.S. Nuclear Regulatory Commission classifies as radioactive waste.

SCAVENGER WASTE — Includes the following:

- A. Domestic sewage, which consists of any mixture of domestic sewage or other waste that passes through a sewer system to a publicly owned treatment works for treatment, including the contents of holding tanks and portable toilets (domestic sewage means untreated sanitary waste that passes through a sewer system);
- B. Septage, which consists of the contents of a septic tank, cesspool or other individual sewage treatment facility which receives domestic sewage waste. Septage does not include liquid or solid material removed from a septic tank that receives either commercial wastewater or industrial wastewater and does not include grease removed from a grease trap at a restaurant;
- C. Sludge, which consists of any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, and aerobic septage. Sludge does not include the treated effluent from a wastewater treatment plant;
- D. Raw sewage, which consists of untreated sanitary waste.

§ 144-6. License required.

No person shall engage in or conduct on real property within the Town of Palermo, County of Oswego, New York, either for himself or for and on behalf of any other person directly or indirectly as agent, employee or otherwise, any activity or business, either for profit or otherwise, which involves the storage, burning, discharging, land application, sorting, handling for storage or disposal, or otherwise, of medical wastes, scavenger wastes or nuclear wastes, without first obtaining a license therefor as hereinafter provided.

§ 144-7. Application for license.

- A. Each applicant for a license hereunder shall submit an application therefor which shall contain the following information:
- (1) The full name of the person seeking a permit and whether that person is an individual, corporation, partnership, joint venture, or other legal entity; if the applicant is not an individual, the application shall set forth the names of all parent corporations, shareholders, partners, joint ventures, or other beneficial owners of the entity seeking a permit, unless the applicant is a publicly held corporation, and the names of all officers of an applicant that is a corporation, and officers and shareholders of any parent corporations.
 - (2) That the applicant is over 21 years of age.
 - (3) Whether the applicant has ever been convicted of a felony or misdemeanor.
 - (4) A description of the exact type of business the applicant intends to conduct, including the nature of the materials to be handled.
 - (5) Each application shall contain an emergency contact telephone number.
- B. The applicant shall submit, with the application and any renewal application, a copy of all correspondences between the landowner/applicant and applicable federal, state or local regulatory agencies and a copy of all applicable federal, state and local permits.
- C. In the application, the applicant shall agree that if granted the license applied for the applicant will conduct the activity or business pursuant to the regulations hereinafter set forth and that upon his failure to do so, such license may be revoked forthwith.

- D. A person presently engaged in or conducting an activity or business such as described herein, on real property within the Town of Palermo, County of Oswego, New York, must apply for a license therefor within 30 days of the adoption of this chapter. If the applicant's activity or business presently complies with the requirements a person must meet to secure a license in the first instance, the applicant shall be issued a license therefor if the applicant meets the other requirements contained herein. If the applicant's activity or business does not presently comply with the requirements a person must meet to secure a license in the first instance, the applicant may be granted a temporary license for one year, during which year the applicant must arrange the activity or business so that it does then comply with the requirements a person must meet to secure a license in the first instance. If at the end of such year such person has not so arranged his place of such activity or business, the applicant shall forthwith cease and desist engaging in or conducting the same and shall remove from such place any materials of the nature described herein.
- E. If the person conducting such activity or business is not the sole owner thereof, the applicant shall state such fact at the time the applicant applies for the temporary license, and the Town Clerk at the time of issuing such temporary license shall send the owners or each of them a notice of the issuance of such temporary license to such person, together with a copy of this chapter.
- F. The application, exemption and operational requirements of this chapter may be satisfied in whole or in part by information reported to the New York State Department of Environmental Conservation, if approved by the Department.

§ 144-8. License exemption.

- A. An application for landspreading of scavenger wastes from one hauler using not more than two vehicles for collection related to land application, shall be exempted from the

license requirements set forth herein, provided the following conditions are satisfied:

- (1) The provisions of § 144-11A(3)(a) or (b), (4), (5), (7), (12), (13), (14), (17), (22), (23)(a), (b) and (c).
 - (2) Soil testing. One representative analysis for each 15 acres or fraction thereof must be submitted to the Town once every three years, beginning in the first year septage is applied to the site. Soil analysis will occur prior to the first application for that year. The analysis must include nutrients (nitrogen, phosphorus, and potassium).
 - (3) Vegetation must be grown at the application facility that is sufficient to utilize all the available nitrogen provided from septage application.
 - (4) The application rate does not exceed 25,000 gallons per acre per year.
 - (5) In all cases, the waste that is land applied must be incorporated into the soil within 24 hours after application, unless concerns regarding odor and surface runoff can be mitigated by other means, and such means are approved by the Town. If the vector attraction reduction option found in § 144-11A(3)(b) is used, the allowable time period prior to incorporation is limited to six hours or less.
- B. A storage facility for septage from one hauler using collection vehicles with a total combined capacity of no more than 3,000 gallons, provided the following conditions are satisfied:
- (1) The provisions of § 144-11B(1), (2), (3), (5), (6), (7) and (10).
 - (2) Surface water must be directed away from the storage facility.

- (3) Ground and/or surface water monitoring programs must be implemented, if required by the Town.

§ 144-9. License fees; issuance; availability, term; transferability; revocation.

- A. The license. The fee for the initial license and the annual renewal fee shall be as set from time to time by resolution of the Town Board,¹ which sums cover not only the cost of issuing the license itself, but also the cost of making the necessary inspections of the premises to ascertain compliance with the regulations hereinafter prescribed. Said fees shall be deposited with the Town Clerk at the time of the making of the application for a license hereunder and shall be retained by the Town Clerk as and for the fee for license, except that in the event that the license shall be denied or refused by the Town Board as hereinafter set forth, the fees shall be returned to the applicant.
- B. Such license shall be granted, upon the submittal of a complete application, to the Town Board of the Town of Palermo, County of Oswego, New York. Any application made to the Town Clerk shall be presented to the Town Board by said Town Clerk at the next regular meeting of the Town Board for consideration and action.

Such license shall be kept at all times at the licensee's place of activity or business for which the license is issued and shall be available at all times to any member of the Town Board, the Constable, members of the Oswego County Sheriff's office, members of the New York State Police, any governmental agencies with jurisdiction over the licensed activity, and any person or persons appointed by the Town Board to inspect such licensed premises.

- D. Such license shall be effective from the date of its issuance until the following April 1 and then renewed yearly

1. **Editor's Note: The current fee schedule is on file in the Town Clerk's office.**

thereafter without hearing upon payment of the annual license fee.

- E. Such license is personal to the licensee. It does not run with the title of the land nor may it be sold, assigned, transferred or disposed of.
- F. Such license may be revoked by the Town Board after a public hearing thereon at which the licensee shall have an opportunity to be heard. Upon revocation of a license, the Town Board may require the removal of all materials left as above provided in the case of an applicant for a temporary license who fails to qualify for a license.
- G. Summary abatement. Notwithstanding any inconsistent provisions of law, whenever the Code Enforcement Officer finds, after investigation, that a condition or activity presents an imminent danger to the public health, safety or welfare, or to the environment, and it therefore appears to be prejudicial to the public interest to delay action until notice and an opportunity for a hearing can be provided, the Code Enforcement Officer may, without prior hearing, order such licensee by notice, in writing, wherever practicable or in such other form as in the Code Enforcement Officer's judgment will reasonably notify such person whose practices are intended to be prescribed, to discontinue, abate or alleviate such condition or activity, and thereupon such person shall immediately discontinue, abate or alleviate such condition or activity. In the event of a licensee's failure to comply voluntarily with such an emergency order, or where the giving of notice is impracticable, the Code Enforcement Officer may take all appropriate action to abate the violating condition. As promptly as possible thereafter, not to exceed 15 days, the Code Enforcement Officer shall provide the licensee an opportunity to be heard in accordance with the provisions of Subsection F.

§ 144-10. Regulations.

- A. The licensee must personally manage or be responsible for the management of the activity or business for which the license is granted.
- B. The area of the licensee’s activity or business shall not be used as a place for the burning of wastes or trash.
- C. The Town Board, the Constable, members of the Oswego County Sheriff’s office, members of the New York State Police, the Code Enforcement Officer, any governmental agencies with jurisdiction over the licensed activity, and any person or persons appointed by the Town Board shall be granted access to the area of activity or business of the licensee at all reasonable hours to inspect the same and test for compliance herewith.
- D. The licensee shall file with the Town Clerk, on the yearly renewal date, documentation that the licensees’ employees have been trained to perform the licensed activities.
- E. The licensee shall file with the Town Clerk, on the annual renewal date, a list of the employees authorized to perform the licensed activities.

§ 144-11. Special conditions.

- A. Septage discharge, disposal, and land application; operational requirements. The following requirements shall apply:
 - (1) Septage destined for land application must not exceed the following contaminant concentrations:

Parameter	Average Monthly Concentration PPM, dry-weight basis	Maximum Concentration
Mercury (Hg)	10	57

Parameter	Average Monthly Concentration PPM, dry-weight basis	Maximum Concentration
Cadmium (Cd)*	21	85
Nickel (Ni)	200	420
Copper (Cu)	1,500	3,000
Lead (Pb)	300	840
Chromium (Cr)	1,000	1,000
Zinc (Zn)	2,500	7,500
Arsenic (As)	41	75
Selenium (Se)	28	100
Molybdenum (Mo)	54	75

NOTE:

* If the monthly average cadmium concentration exceeds 5 ppm, dry-weight basis, the cadmium/zinc ratio must not exceed 0.015.

- (a) If a waste contains heavy metals or other pollutants at concentrations greater than those set forth in this subsection, an operating facility can not continue to operate until the septage manager has implemented an identification and abatement program and compliance has been achieved to assure that the septage has continuously met the quality parameters of this subsection for a period of at least six months.
- (2) All septage must be stabilized to reduce pathogens before land application by one of the following methods, or the site restrictions in Subsection A(4) must be implemented. Land application of septage that has been stabilized by chlorine oxidation is prohibited.

- (a) Aerobic digestion. This is conducted by agitating the septage with air or oxygen to maintain aerobic conditions at residence times ranging from 60 days at 15° C. to 40 days at 20° C., with a volatile solids reduction of at least 38%.
- (b) Air drying. Liquid septage must be allowed to drain or dry on underdrained sand beds, or paved or unpaved basins, in which the septage must not exceed a depth of nine inches. The septage must remain in the drying bed a minimum of three months. During at least two of the three months, the ambient air temperatures must average, on a daily basis, above 0° C.
- (c) Anaerobic digestion. The septage is digested in the absence of air at residence times ranging from 60 days at 20° C. to 15 days at 35° C. to 55° C., with a volatile solids reduction of at least 38%.
- (d) Lime stabilization. Sufficient lime must be added to the septage to produce a pH of 12 throughout the septage after two hours of contact. Such septage must be thoroughly mixed with the lime.
- (e) Composting. Using the within-vessel, aerated static pile or windrow composting methods, the temperature of the waste is raised to 40° C. or higher and remains at 40° C. or higher for five consecutive days. For at least four consecutive hours during the five days, the temperature in the compost pile must exceed 55° C.
- (f) Other methods. Other methods or operating conditions may be acceptable if pathogens and vector attraction of the waste are reduced to an extent equivalent to the reduction achieved by

any of the above methods and it is approved by the Town.

- (3) For land application of septage, one of the following vector attraction reduction requirements must be met:
 - (a) Injection. Septage shall be injected below the surface of the land and no significant amount of the septage shall be present on the land surface within one hour after the septage is injected;
 - (b) Incorporation. Septage applied to the land surface shall be incorporated into the soil surface plow layer within six hours after application; or
 - (c) Lime stabilization. The pH of septage shall be adjusted to meet the requirements of Subsection A(2)(d) of this section.
- (4) For land application of septage that has not been stabilized to reduce pathogens by one of the methods referenced in Subsection A(2), the following site restrictions shall be implemented:
 - (a) Food crops with harvested parts that touch the septage/soil mixture and are totally above the land surface shall not be harvested for 18 months after application of septage.
 - (b) Food crops with harvested parts below the surface of the land shall not be harvested for 20 months after application of septage when the septage remains on the land surface for four months or longer prior to incorporation into the soil.
 - (c) Food crops with harvested parts below the surface of the land shall not be harvested for 38 months after application of septage when the septage remains on the land surface for less

- than four months prior to incorporation into the soil.
- (d) Food crops, feed crops, and fiber crops shall not be harvested for 30 days after application of septage.
 - (e) Animal grazing requirements of Subsection A(18).
 - (f) Turf grown on land where septage is applied shall not be harvested for one year after application of the septage when the harvested turf is placed on either land with a high potential for public exposure or a lawn, unless otherwise specified by the Town.
 - (g) Public access requirements of Subsection A(18).
- (5) The land applier of septage must sign a certification statement stating that: "The information that will be used to determine compliance with this local law has been prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification, including the possibility of fine and imprisonment." Written permission from the landowners must be obtained for all lands where land application will occur. A multiparty certificate indicating who will be responsible for each applicable operation requirement must be complete and followed.
- (6) Annual septage testing is required.
- (a) Septage must be sampled and analyzed in accordance with the following:

Parameters Group A	Septage Group B
Total Kjeldahl nitrogen	Arsenic
Ammonia	Cadmium
Nitrate	Chromium
Total phosphorus	Copper
Total potassium	Lead
pH	Mercury
Total solids	Molybdenum
Total volatile solids	Nickel
	Selenium
	Zinc

- (b) The minimum number of analyses required are as follows:

Septage Applied (dry tons/year)	Number of Analyses Groups A&B (per year)
Greater than 1,000	12
200 to 1,000	6
Less than 200	

- (c) Analyses for other pollutants may be required, on a case-specific basis, based on information from the pretreatment program and other sources.
- (d) All analyses must be performed by a laboratory certified by the New York State Department of Health for that type of analysis, using methods acceptable to the Department as outlined below, unless use of an alternate laboratory or

method is authorized by the New York State Department of Environmental Conservation. Copies of the original laboratory results must be included with the permit application.

- (e) The analysis requirement may be satisfied in part or in whole by recent samples analyzed for and reported to the New York State Department of Environmental Conservation, if approved by the Department.
 - (f) All samples must be representative of the waste to be land applied.
 - (g) After the wastes have been monitored for 2 years at the frequency outlined in this subsection, the Town may reduce the annual number of analyses required if the waste quality is consistently below the quality standards.
- (7) The minimum horizontal distance from the perimeter of the site to be used for land application of septage must meet or exceed the following:

Item	Minimum Horizontal Separation Distance in Feet
Drainage swale	25
Property line	50
Surface water body	100
Residence* or place of business	500
Water well or supply	200

**Minimum Horizontal
Separation
Distance in Feet**

Item

NOTE:

*The landowner or operator's residence is excluded from this separation distance requirement. In addition, this requirement does not apply to waste that is directly injected below the land surface or to lands where adjacent owners consent to the activity within the separation distance.

- (8) Land application must not occur on land with a slope exceeding 15%. Land-applying septage with a total solids content of less than 15% is prohibited on land with a slope greater than 8%, unless applied by subsurface injection along paths parallel to contours.
- (9) The hydraulic loading must not exceed 16,000 gallons per acre in a twenty-four-hour period.
- (10) The annual cadmium application rate must not exceed 0.45 pound per acre (one-half kilogram per hectare), and the cumulative loading limit of metals must not exceed the following:

**Cumulative Loading Limit in Pounds per Acre
Agricultural Soils**

Metal	Group 3	Groups 4-10	Nonagricultural Lands
Cadmium (Cd)	3	4	10
Nickel (Ni)	30	45	150
Copper (Cu)	75	112	250
Zinc (Zn)	150	223	500
Lead (Pb)	300	300	300

**Cumulative Loading Limit in Pounds per Acre
Agricultural Soils**

Metal	Group 3	Groups 4-10	Nonagricultural Lands
Chromium (Cr)	300	446	*
Arsenic (As)			36
Selenium (Se)			89

NOTE:

* In addition to the above metals, total chromium (Cr) and mercury (Hg) may be limited based upon their potential effect on groundwater quality.

- (11) The heavy metal loading must not exceed 20% of the cumulative metal loading limit in any one year.
- (12) Land application and subsequent vegetation must be in accordance with soil conservation practices that minimize run-off and soil loss through erosion. Land application must be controlled to prevent contravention of groundwater and surface water standards provided by the New York State Department of Environmental Conservation. The available nitrogen loading must not exceed the nitrogen needs of the crop grown.
- (13) Septage shall not be deposited in a manner that will allow the material to drain or become washed into any body of water, stream, or watercourse. Dikes, berms, or other pollution protection devices or techniques must be used as required by the Town to prevent run-off entering surface waters.
- (14) Land application facilities and practices in floodplains must not result in washout of the solid wastes. Land application is prohibited in floodplain areas designated as floodways as defined in the

Environmental Conservation Laws and regulations of the State of New York.

- (15) Land application is prohibited in areas where bedrock lies less than two feet below the ground surface.
- (16) Soil pH must be adjusted to 6.5 standard units or higher prior to periods of septage application.
- (17) Septage must not be applied on snow, frozen or saturated ground, or during rainfall, except septage may be applied on snow or frozen ground by direct injection below the land surface. Storage and/or disposal facilities must be available for periods during the year when waste cannot be applied.
- (18) Public access to the land application facility is prohibited for at least 12 months after the last application of septage, and must be controlled during that period by the use of fences and gates, signs, or posted signs. Dairy cattle must not graze for at least 12 months after the last application, and other animals must not graze for at least one month after the last application.
- (19) No crop for direct human consumption may be harvested on septage-amended soil for at least 18 months after the last application.
- (20) Land application is permitted only when the beneficial value of the septage as a supply of nutrients or as a soil conditioner can be demonstrated.
- (21) Land application of septage must not occur in areas where the seasonal high groundwater is within 24 inches of the ground surface. Land application of septage must not occur in areas where an aquifer or wellhead protection area is within 60 inches of the ground surface, or over a primary aquifer.

- (22) Land application is allowed only on soil having a permeability of 0.06 inch to 6.0 inches per hour and within one or more of the following soil texture classes: sandy loam, sandy clay loam, loam, silt loam, silt, sandy clay and clay loam.
 - (23) An annual report must be submitted to the Town no later than March 1 of each year and must include, as a minimum:
 - (a) The location of the landspreading fields used;
 - (b) The crops grown on each field;
 - (c) The total quantity of septage applied, including land application dates and quantity applied during each application on each field;
 - (d) The loading rates (hydraulic, nutrient, and cumulative heavy metal) for the sites used;
 - (e) All analytical results required by this section, including copies of all laboratory reports;
 - (f) A description of any problems, complaints, etc. arising as a result of the land application operation, the corrective actions taken; and
 - (24) The Town and all property owners contiguous to the land application site must be notified at least 48 hours prior to the first land application of each year.
- B. Septage storage facilities; operational requirements.**
- (1) The minimum horizontal separation distances set forth in Subsection A(7) of this section also apply to storage facilities for septage, except the separation to a neighboring residence shall be increased to 1,500 feet.
 - (2) Vectors, odor, and dust control must be practiced when necessary. If restricted pesticides are used on

or around storage facilities, their type and use must be acceptable for use on food-chain crops.

- (3) Surface impoundments and open tanks must be properly fenced and posted to prevent unauthorized access.
- (4) All samples obtained from the storage facility must be representative of the material stored. The Town will determine the number of samples necessary.
- (5) All such storage facilities must be completely emptied, cleaned, and inspected every 12 months. The Town must be notified at least one week prior to when the cleaning operation is complete to afford the Town the opportunity to inspect the liner system or tank before additional material is placed in the facility. Any damage or deterioration revealed by this inspection must be repaired before that facility again receives septage.
- (6) Surface impoundments must be constructed above the one-hundred-year flood elevation and must be constructed with a liner system to minimize percolation. The liner system must consist of either a minimum of two feet of compacted natural material having a coefficient of permeability of 1×10^{-7} centimeters per second or less, or a man-made material approved by the Town. The soil material particles must be able to pass through a one-inch screen.
- (7) Surface impoundments must have a minimum two feet of freeboard. The bottom of the impoundment liner system must be a minimum of five feet above both the seasonal high groundwater table and top of bedrock.
- (8) A minimum of one upgradient and two downgradient monitoring wells, or more as determined by Town, must be installed at the surface impoundment site. If

multiple surface impoundments are employed, and are not in close proximity to each other, then each impoundment must have separate monitoring well arrays. A secondary liner system with leachate collection and monitoring may substitute for groundwater monitoring, subject to Town approval.

- (9) Baseline water quality conditions, reflecting groundwater data contained in the New York State Environmental Conservation regulations, must be established before placement of septage in a surface impoundment.
- (10) Storage facilities, other than surface impoundments, used to hold sewage sludge, septage or other solid waste may be constructed of concrete, steel, or other material approved by the Town. Tanks must be tested for tightness biennially, with results provided to the Town within thirty days of test completion.
- (11) Quarterly sampling of the wells at the surface impoundment must be conducted on the following parameters: chloride, nitrate, sulfate, specific conductivity, total hardness, alkalinity, and total organic carbon or chemical oxygen demand. For septage, annual sampling must be conducted on the following parameters: Cd, Hg, Pb, Cu, Zn, Ni, Total Cr, As, Se, and persistent organic compounds of concern, as directed by the Town.
- (12) An annual report must be submitted for each year of operation to the Town no later than March 1 of each year and must include all required analyses, source and quantities of materials and delivery dates and quantities of waste removal, results of biannual inspections, and descriptions of any operating problems and corrective actions taken. The submittal of the annual report may be coordinated with an associated land application annual report, or other report subject to Town approval.

WASTES, MEDICAL, NUCLEAR
AND SCAVENGER

§ 144-11

§ 144-12

- C. Nuclear wastes; storage, transport, disposal, and treatment facilities. Nuclear waste storage, transport, disposal, and treatment facilities shall be regulated in accordance with all applicable federal, state and local laws.
- D. Medical wastes; storage, transport, disposal, and treatment facilities. Medical waste storage, transport, disposal, and treatment facilities shall be regulated in accordance with all applicable federal, state and local laws.

§ 144-12. Penalties for offenses.

- A. The owner or licensee of any such place of business who commits or permits any acts in violation of any of the provisions of this chapter shall be deemed to have committed an offense against such chapter and also shall be liable for any such violation or the penalty therefor. Each day such violation shall continue or be permitted to exist shall constitute a separate violation.
- B. Any person or persons, firm or corporation who violates any provisions of this chapter shall be guilty of a misdemeanor and shall be subject to a maximum fine of \$5,000 for first offense, \$10,000 for second offense or imprisonment for not more than one year, or both.
- C. Conviction of any above-mentioned violation shall constitute and effect an immediate forfeiture of the license.
- D. Any person violating this chapter shall be subject to a civil penalty enforceable and collectible by the Town in the amount of \$1,000 for each such offense. Such penalty shall be collectible by and in the name of the Town for each day that such violation shall continue.
- E. In addition to the above-provided penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of such chapter. On an

application by the Town for preliminary injunctive relief in such a proceeding, the Town shall not be required to show irreparable harm or to post security in any form.

§ 144-13. Coordination with state law.

The provisions of this chapter shall be interpreted in such a manner as being consistent with state law, except that the more stringent requirements of this chapter shall apply.